

*47-49. The Court held that the assertions by the seller were affirmations, not puffery. The Court reasoned that determination of whether a statement is puffery is to be “considered within the circumstances surrounding the transaction, the reasonableness of the buyer in believing the seller, and the reliance placed on the seller’s statements by the buyer.” *Id.* at *47.

The Court will likely find that Ms. Payne relied upon the affirmations of Mr. Dean because she trusted him to have superior knowledge and capability in the context of the bargain. Like *Fletcher* where within the context of their bargaining a plaintiff relied upon the affirmations and superior knowledge of the seller in his decision to buy purchase pesticide, here too Ms. Payne relied upon the superior knowledge and affirmations made by Mr. Dean in her decision to purchase corn. Mr. Dean affirmed his corn to be of high quality, gave her a tour of his polished facilities, and affirmed he had expansive experience. Ms. Payne had no reason to think his affirmations to be untrue in the context of their bargain. As in *Fletcher* where the Court found the plaintiff to have relied upon the seller’s affirmations given the context of their bargain, here too the Court will likely Ms. Payne reasonably relied upon Mr. Dean’s affirmations.

The Court will likely hold that Ms. Payne relied upon the affirmations of Mr. Dean because Mr. Dean made affirmations that his product would fit her needs. In *Harriman*, when the seller affirmed their product was correct for the buyers’ requirements, the Court held that such an affirmation was strong proof of the buyer’s reliance. Here, Mr. Dean asserted that Ms. Payne had “come to the right place” with knowledge of her purpose and requirements for the corn. As in *Harriman* where that type of affirmation was ruled to be proof of reliance, here too the Court will likely find that Mr. Deans’ affirmation that Ms. Payne had come to the right place for her corn within the context of their bargaining is strong proof of reliance.

The Court will likely find that Mr. Dean's statements are affirmations because they were reasonably relied upon by Ms. Payne. Like in *SFEG Corp.* where the Court found that within the context of the bargain the buyer had reasonably relied upon the seller's superior knowledge and expertise in the area, and because of that reasonable reliance the seller's assertions were affirmations not puffery, here too it was reasonable for Ms. Payne to rely upon Mr. Dean's affirmations in the context of the bargain. Mr. Dean had superior knowledge evidenced by his Master of Agriculture degree and years of experience in the corn business. Thus, the Court will likely rule that Ms. Payne reasonably relied upon the statements Mr. Dean made that his corn was "the finest in Tennessee" and that there is "no corn better."

The Court will likely hold that Ms. Payne was induced to purchase because she reasonably relied upon the veracity of Mr. Dean's affirmations in her decision to purchase his corn. In the context of the bargain Mr. Dean held superior knowledge in the product area, Mr. Dean made multiple assertions that his product was superior to his competitors, and that it would fit the requirements of the purpose which Ms. Payne needed the corn for. Thus, the Court will likely hold that Mr. Dean's affirmations induced Ms. Payne's purchase.

CONCLUSION

Ms. Payne will likely succeed if she proceeds with the case theory that an express warranty was formed between herself and Mr. Dean because Mr. Dean made multiple written and oral affirmations to induce her purchase, and Ms. Payne reasonably relied upon and was induced to purchase because of those affirmations. Given the goal of the express warranty statute and the fulfillment of the elements for a prima facie case of express warranty creation, the Court will likely find that an express warranty was created.

Applicant Details

First Name **Blake**
 Last Name **Hyde**
 Citizenship Status **U. S. Citizen**
 Email Address blake.campbell.hyde@gmail.com
 Address

Address
Street
1209 1/2 Rhode Island Ave NW
City
Washington
State/Territory
District of Columbia
Zip
20005
Country
United States

Contact Phone Number **5303836810**

Applicant Education

BA/BS From **San Francisco State University**
 Date of BA/BS **May 2011**
 JD/LLB From **University of California, Berkeley**
School of Law
<https://www.law.berkeley.edu/careers/>
 Date of JD/LLB **May 14, 2022**
 Class Rank **School does not rank**
 Law Review/Journal **Yes**
 Journal(s) **Ecology Law Quarterly**
 Moot Court Experience **No**

Bar Admission**Prior Judicial Experience**

Judicial Internships/
 Externships **Yes**

Post-graduate Judicial Law Clerk **No**

Specialized Work Experience

Recommenders

Chemerinsky, Erwin
echemerinsky@law.berkeley.edu
5106426483

This applicant has certified that all data entered in this profile and any application documents are true and correct.

April 08, 2022

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige,
Jr., U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

I am a 3L at Berkeley Law seeking a 2022 term clerkship in your chambers. I am particularly excited about the opportunity to live, learn, and work in beautiful Richmond, near friends and family.

A bit about me: I am an aspiring litigator with a commitment to and an extensive professional background working for the public interest. I also have experience in the federal judiciary, having externed for Judge Haywood Gilliam on the Northern District of California and Judge Marsha Berzon on the Ninth Circuit. For a number of reasons, I believe I would make a strong addition to your team.

First, I have developed a strong intellectual curiosity and broad interest in the law generally. Although I came to law school intending to focus on environmental issues, I have been fascinated by a wide range of subjects, especially legal doctrinal.

Second, I have made it a priority to develop legal research and writing skills. To that end, my judicial externships have been particularly valuable. Those experiences, more than anything else I have done in law school, helped me develop strong legal research and writing skills. In fact, through one particular bench memo, I was able to convince Judge Gilliam to reverse course on a prior ruling concerning statutory interpretation of the Communications Decency Act. Beyond the skills gained, I also enjoyed learning new facets of the law with each new case. And I appreciated the strong motivation to get the case right.

Finally, my professional experiences before law school have honed my skills and goals. For example, I spent two years in the Army National Guard developing intangible skills like attention to detail, teamwork, determination, and grit. And I excelled in the process. For example, I was selected out of a 50-man unit during Basic Training to act as Platoon Guide, the top trainee leadership position, responsible for ensuring soldiers were on time and prepared for all training events and acting as liaison between soldiers and drill sergeants. I bring this same focus, work ethic, and drive to my legal education.

I hope to speak with you soon about this fantastic opportunity.

Very respectfully,

Blake Hye

BLAKE HYDE

1821 N. Bend Drive, Sacramento, CA 95835 • (530) 383-6810 • blake.campbell.hyde@gmail.com

EDUCATION

UNIVERSITY OF CALIFORNIA, BERKELEY SCHOOL OF LAW Juris Doctor	San Francisco, CA 2019 – 2022
<ul style="list-style-type: none"> • <i>Associate Editor, Ecology Law Quarterly</i> • <i>Environmental Law Clinic</i> 	
AMERICAN UNIVERSITY, SCHOOL OF INTERNATIONAL SERVICE Master of Arts, Global Environmental Policy	Washington, DC 2011 – 2013
SAN FRANCISCO STATE UNIVERSITY Bachelor of Arts, <i>magna cum laude</i> , Political Science	San Francisco, CA 2005 – 2011

EXPERIENCE

COURT OF APPEALS FOR THE NINTH CIRCUIT, Judge Marsha Berzon <i>Spring Extern</i>	San Francisco, CA Jan. 2022 – May 2022
<ul style="list-style-type: none"> • Drafting bench and disposition memoranda • Compiling bench books and taking notes for en banc conference calls 	
REMY MOOSE MANLEY, LLP <i>Summer Associate</i>	Sacramento, CA May 2021 – Aug. 2021
<ul style="list-style-type: none"> • Researched and drafted memoranda on various environmental issues, most often dealing with California law • Wrote articles for the California Land Use Law & Policy Reporter and blog posts for the firm's website 	
NORTHERN DISTRICT OF CALIFORNIA, Judge Haywood S. Gilliam <i>Spring Extern</i>	Oakland, CA Jan. 2021 – May 2021
<ul style="list-style-type: none"> • Researched and drafted bench memoranda and draft orders, addressing procedural motions in a variety of cases, from antitrust to human trafficking 	
EARTHJUSTICE <i>Fall Extern</i>	San Francisco, CA Aug. 2020 – Dec. 2020
<ul style="list-style-type: none"> • Researched and drafted memoranda covering a variety of topics in federal environmental law • Reviewed notice-and-comment records from environmental agencies and analyzed for sufficiency • Helped prepare for civil and criminal hearings, case management conferences, and bench trials 	
GEORGETOWN CLIMATE CENTER <i>Research Assistant</i>	Washington, DC May 2020 – Aug. 2020
<ul style="list-style-type: none"> • Researched and drafted reports and case studies on local, regional, state and national laws and policies concerning climate change adaptation • Organized and submitted entries for the Adaptation Clearinghouse, a database of resources for climate adaptation policymakers, and Managed Retreat Toolkit, which highlights best practices for coastal retreat 	
WORLD RESOURCES INSTITUTE <i>Program Coordinator</i>	Washington, DC Jan. 2019 – Aug. 2019
<ul style="list-style-type: none"> • Managed complex project budgets by tracking spend-down rates and reporting to funders, processing invoices and financial reports; organizing project finances; and developing proposals to donors • Led project grant management by submitting formal grant proposals, drafting and submitting grant budgets, tracking deliverables and reporting, and tracking donors and contacts 	

ARMY NATIONAL GUARD

Infantryman (Rank: Specialist)

Silver Spring, MD

Aug. 2016 – Jul. 2018

- Earned the top leadership position in Basic Training platoon, overseeing the day-to-day logistics of the platoon and acting as liaison between enlisted and non-commissioned officers
- Managed personnel, ensuring soldiers were unit-cohesive, equipped, prepared, and aware of evolving training requirements for all training events

BOOZ ALLEN HAMILTON

DTRA/CBEP Ethiopia Project Lead

Lorton, VA

Jun. 2015 – Aug. 2016

- Advised and assisted officials at the Defense Threat Reduction Agency's Cooperative Biological Engagement Program to help the Government of Ethiopia track and contain hazardous bio materials
- Managed all stages of the contract acquisition process for large-scale international development contracts such as for the design of a multi-million-dollar public health center in Ethiopia

Berkeley Law

University of California

Office of the Registrar

Blake C Hyde
Student ID: 3036453528
Admit Term: 2020 Fall

Printed: 2022-01-07 10:23
Page 1 of 2

Academic Program History
Major: Law (JD)

2020 Fall				
Course	Description	Units	Law Units	Grade
LAW 230	Criminal Law	4.0	4.0	H
LAW 243	Khiara Bridges Appellate Advocacy	3.0	3.0	P
LAW 270.6	Scotia Hicks Energy Law & Policy	3.0	3.0	P
LAW 295	Daniel Farber Civ Field Placement Ethics Sem	2.0	2.0	P
LAW 295.1J	Brendan Darrow Susan Schechter Sharon Hing Ecology Law Quarter	1.0	1.0	CR
LAW 295.6C	Kathleen Vanden Heuvel Environmental Field Placement	4.0	4.0	CR

Fulfills Writing Requirement

Fulfills Either Prof. Resp. or Experiential

Units Count Toward Experiential Requirement

Susan Schechter

Transfer Credits	Units	Law Units
Georgetown Univ Law Center	28.0	28.0
Fulfills Constitutional Law Requirement		
Georgetown Univ Law Center.	2.0	2.0
Units Count Toward Experiential Requirement		
	Units	Law Units
Term Totals	47.0	47.0
Cumulative Totals	47.0	47.0

2021 Spring				
Course	Description	Units	Law Units	Grade
LAW 207.5	Advanced Legal Writing	2.0	2.0	P
LAW 234.2	Natalie Winters Criminal Justice Reform	2.0	2.0	HH
LAW 272.3	Jonathan Simon Climate Change & the Law	2.0	2.0	P
LAW 289A	Robert Infelise Judicial Externship Seminar	1.0	1.0	CR
LAW 295.8B	Susan Schechter Donna Ryu Judicial Externships: Bay Area	5.0	5.0	CR
	Units Count Toward Experiential Requirement			
	Susan Schechter			
		Units	Law Units	
	Term Totals	12.0	12.0	
	Cumulative Totals	59.0	59.0	

2021 Fall				
Course	Description	Units	Law Units	Grade
LAW 222	Federal Courts	4.0	4.0	P
LAW 241	Erwin Chemerinsky Evidence	4.0	4.0	H
LAW 291A	Andrea Roth Environ Law Cl Sem	2.0	2.0	CR
LAW 295.5E	Claudia Polsky Environmental Law Clinic	4.0	4.0	CR
	Units Count Toward Experiential Requirement			
	Claudia Polsky Sabrina Ashjian Steven Castleman Antonette Cordero			
		Units	Law Units	
	Term Totals	14.0	14.0	
	Cumulative Totals	73.0	73.0	


 Carol Rachwald, Registrar

Berkeley Law

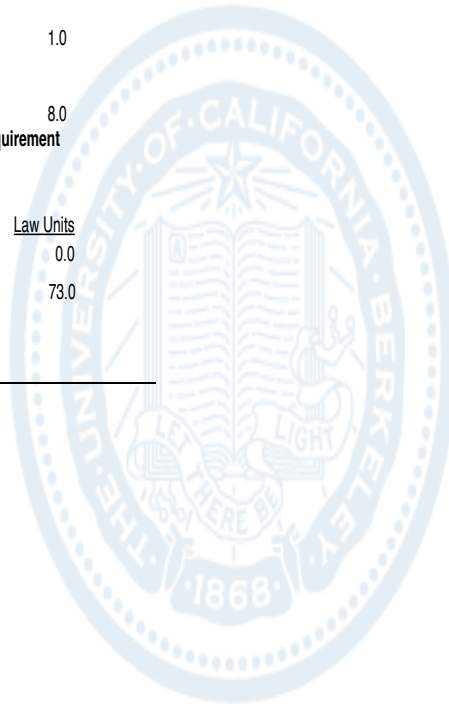
University of California

Office of the Registrar

Blake C Hyde
 Student ID: 3036453528
 Admit Term: 2020 Fall

Printed: 2022-01-07 10:23
 Page 2 of 2

		2022 Spring			
Course		Description	Units	Law Units	Grade
LAW	226.12	Media Law&the First Amendment Geoffrey King Diana Baranetsky	1.0	1.0	
LAW	234.21	Dismantling Mass Incarceration Antony Cheng	1.0	1.0	
LAW	272.2A	Environmental Justice in Pract Suma Peesapati Veronica Eady	1.0	1.0	
LAW	274.7	Environ Law Colloqu Holly Doremus Daniel Farber	1.0	1.0	
LAW	295.8B	Judicial Externships: Bay Area	8.0	8.0	
Units Count Toward Experiential Requirement					
Susan Schechter					
			<u>Units</u>	<u>Law Units</u>	
Term Totals			0.0	0.0	
Cumulative Totals			73.0	73.0	




 Carol Rachwald, Registrar

University of California
Berkeley Law
270 Simon Hall
Berkeley, CA 94720-7220
510-642-2278

KEY TO GRADES

1. Grades for Academic Years 1970 to present:

HH	-	High Honors	CR	-	Credit
H	-	Honors	NP	-	Not Pass
P	-	Pass	I	-	Incomplete
PC	-	Pass Conditional or Substandard Pass (1997-98 to present)	IP	-	In Progress
NC	-	No Credit	NR	-	No Record

2. Grading Curves for J.D. and Jurisprudence and Social Policy PH.D. students:

In each first-year section, the top 40% of students are awarded honors grades as follows: 10% of the class members are awarded High Honors (HH) grades and 30% are awarded Honors (H) grades. The remaining class members are given the grades Pass (P), Pass Conditional or Substandard Pass (PC) or No Credit (NC) in any proportion. In first-year small sections, grades are given on the same basis with the exception that one more or one less honors grade may be given.

In each second- and third-year course, either (1) the top 40% to 45% of the students are awarded Honors (H) grades, of which a number equal to 10% to 15% of the class are awarded High Honors (HH) grades or (2) the top 40% of the class members, plus or minus two students, are awarded Honors (H) grades, of which a number equal to 10% of the class, plus or minus two students, are awarded High Honors (HH) grades. The remaining class members are given the grades of P, PC or NC, in any proportion. In seminars of 24 or fewer students where there is one 30 page (or more) required paper, an instructor may, if student performance warrants, award 4-7 more HH or H grades, depending on the size of the seminar, than would be permitted under the above rules.

3. Grading Curves for LL.M. and J.S.D. students for 2011-12 to present:

For classes and seminars with 11 or more LL.M. and J.S.D. students, a mandatory curve applies to the LL.M. and J.S.D. students, where the grades awarded are 20% HH and 30% H with the remaining students receiving P, PC, or NC grades. In classes and seminars with 10 or fewer LL.M. and J.S.D. students, the above curve is recommended.

Berkeley Law does not compute grade point averages (GPAs) for our transcripts.

For employers, more information on our grading system is provided at: <https://www.law.berkeley.edu/careers/for-employers/grading-policy/>

Transcript questions should be referred to the Registrar.

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This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Blake Campbell Hyde
GUID: 843866343

Course Level: Juris Doctor

Entering Program:

Georgetown University Law Center
Juris Doctor
Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
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----- Fall 2019 -----							
LAWJ	001	94	Civil Procedure	4.00	B+	13.32	
Kevin Arlyck							

LAWJ	002	41	Contracts	4.00	A-	14.68	
Gregory Klass							

LAWJ	004	94	Constitutional Law I: The Federal System	3.00	A	12.00	
Laura Donohue							

LAWJ	005	43	Legal Practice: Writing and Analysis	2.00	IP	0.00	
Rima Sirota							

Dean's List Fall 2019

	EHrs	QHrs	QPts	GPA
Current	11.00	11.00	40.00	3.64
Cumulative	11.00	11.00	40.00	3.64

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
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----- Spring 2020 -----							
LAWJ	003	42	Criminal Justice	4.00	P	0.00	
Rosa Brooks							

LAWJ	005	43	Legal Practice: Writing and Analysis	4.00	P	0.00	
Rima Sirota							

LAWJ	007	94	Property	4.00	P	0.00	
Sheila Foster							

LAWJ	008	94	Torts	4.00	P	0.00	
Gary Peller							

LAWJ	1326	50	Legislation and Regulation	3.00	P	0.00	
William Buzbee							

Mandatory P/F for Spring 2020 due to COVID19

----- Transcript Totals -----				
	EHrs	QHrs	QPts	GPA

Current	19.00	0.00	0.00	0.00
Annual	30.00	11.00	40.00	3.64
Cumulative	30.00	11.00	40.00	3.64

----- End of Juris Doctor Record -----				
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February 7, 2022

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige,
Jr., U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

I am writing to highly recommend Mr. Blake Hyde for a position as your law clerk. Mr. Hyde was a student in my Federal Courts class in the Fall 2021 semester. He was among the most frequent participants in class discussions and he came to office hours almost every day. I thus had many opportunities to interact with him and I was tremendously impressed. I believe that he will be an excellent law clerk and lawyer.

Mr. Hyde's comments during class discussions and his questions at office hours reflected very thorough preparation of the materials and careful thought about it. His classroom participation was outstanding: his comments were original, insightful, and clearly stated. In a class of 165 students, his regular participation was truly noteworthy. His questions, during class and in office hours, were sophisticated and reflected a deep understanding of the very difficult material covered in a federal courts class.

His comments and questions in class and in office hours caused me to be very impressed by his diligent hard work, his keen intelligence, and his ability to express himself exceptionally well. I have no doubt that he will put in the effort and has the ability to excel at whatever he does. I also found he was a pleasure to talk with and I know you would enjoy working with him.

I recommend him to you enthusiastically and without reservation.

Sincerely,

Erwin Chemerinsky

Erwin Chemerinsky - echemerinsky@law.berkeley.edu - 5106426483

Blake Hyde

Address: 1821 N. Bend Drive, Sacramento, CA 95835

Phone: (530) 383-6810

Email: blake.campbell.hyde@gmail.com

Writing Sample

The attached writing sample is an appellate brief I drafted during the fall 2020 semester for an Appellate Advocacy course. At the time, this case was pending before the California Supreme Court. The case has since been briefed, argued, and decided.

Our course assignment entailed analyzing a question of statutory interpretation. The brief assesses whether an actual minor is a necessary element under the attempt prong of California's human trafficking provision, Penal Code Section 236.1(c).

The Cover Page, Table of Contents, and Table of Authorities have been removed.

QUESTION PRESENTED

Under the attempt prong of Penal Code¹ section 236.1, subdivision (c) (hereafter section 236.1(c)), must the intended victim, whom a defendant believes to be a minor, be an actual minor?

INTRODUCTION

“Upwards of 300,000 American children are at risk of commercial sexual exploitation.” Proposition 35, § 2.3, as approved by voters Gen. Elec. (Nov. 6, 2012) eff. Nov. 7, 2012 (hereafter CASE Act). Yet combatting sex trafficking is challenging since it often takes place on social media platforms through private online messaging. Reporter’s Transcript (hereafter RT) at 141.

To root out this evil, voters passed the Californians Against Sexual Exploitation (“CASE”) Act with overwhelming support in 2012. The Act, which is codified under section 236.1(c), addresses the insidious issue of sex trafficking by empowering law enforcement and increasing punishments for sex traffickers. In particular, the Act punishes criminals who attempt to sex traffic minors as harshly as those who successfully do.²

It does so by codifying an “attempt” crime and, therefore, incorporating section 21a, which defines “attempt” as a term of art. According to section 21a, one who attempts a crime need only 1) harbor a specific intent to commit that crime and 2) take a step toward its commission. Section 21a also forecloses a defense of factual impossibility—such as the lack of an actual minor. And, critically, incorporating section 21a into section 236.1(c) is not optional: according to section 7(16), terms of art *must* be given their particular term-of-art meanings. The upshot is, under section

¹ All further statutory references are to the Penal Code unless otherwise indicated.

² The law prior to the CASE Act granted those who unsuccessfully attempted to sex traffic minors a reduced sentence based on their inefficacy. *See* § 664.

236.1(c), those who “attempt” to sex traffic minors need only intend to do so and take steps toward doing so. Whether their intended victim is an actual minor is irrelevant.

Finding that an actual minor is not required under a section 236.1(c) attempt is also simply good policy. It will keep dangerous predators off the streets longer and more effectively deter would-be sex traffickers, thereby furthering the goals of the CASE Act by protecting minors.

On the other hand, finding that an actual minor is required under section 236.1(c) would be both unjust and bad policy. Failed sex trafficking attempters, even though they are as morally culpable as the successful trafficker, would escape prosecution under section 236.1(c) on the dumb luck that their intended victim was not actually a minor. Police would also be unable to enforce section 236.1(c) by conducting sting operations to flush out would-be sex traffickers—unless, that is, they put minors in harm’s way by using them in their operations.

Therefore, this Court should hold that, under the attempt prong of section 236.1(c), the intended victim need not be an actual minor. For that reason, the Fourth District Court of Appeal ruling should be overturned and Defendant’s section 236.1(c) conviction should be reinstated.

STATEMENT OF FACTS

Social media platforms provide sex traffickers extraordinary opportunities for exploitation. RT at 152-53. With this in mind, Detective Barragan of the Santa Ana Police Department created a fake profile on Tagged.com, a social media website limited to members 18 years and older. *Id.* at 155. He created a profile for a 21-year-old female named “Bella.” *Id.* at 156.

Defendant Antonio Chavez Moses III contacted Bella, on April 16, 2016, *Id.* at 188, as well as numerous other individuals on Tagged.com, seeking to recruit them into prostitution. *People v. Moses*, 251 Cal. Rptr. 3d 462, 465 (Cal. Ct. App. 2019). This is typically the way pimps recruit women over social media since they can “reach out to numerous girls all at the belief one

is going to bite. . . . As fast as [they] can text out or copy and paste a hundred messages, [they] can contact a hundred girls.” RT at 152-53.

Defendant and Bella began a series of text conversations establishing a pimp/prostitute relationship, with Detective Barragan “mimic[king] the patterns and style of speech” he had seen in other pimping cases. *Id.* at 204, 177. Detective Barragan said Bella was in the Bay Area “chasing paper,” a phrase common to the prostitution subculture referring to money-making. *Id.* at 191. In response, Moses said Bella should “find her way to daddy, your prince. I will make your life a whole lot easier.” *Id.* at 192. Bella said she would be back in Southern California soon and Defendant told Bella she should come work for him, saying that he is a “real” pimp with “enough game in this brain” to make them both rich. *Id.* at 194-95. He said he would teach her to make \$1,000 a night. *Id.* at 208. But unlike other pimps, he said, he would not be violent. *Id.* at 197.

Two days later, on April 18, Bella told Defendant she was only seventeen years old. *Id.* at 226. Moses said he feared she was a police officer. She assured him she was not so he said he still wanted to pimp her. *Id.* at 226. Rather than express moral apprehension, though, he merely feared being caught, saying “I just got to know you’re not trying to get me on some setup-type shit.” *Id.* He again asked her to come down to Los Angeles so he could start pimping her. *Id.* at 227.

The next day, Bella told Defendant she had returned to nearby Orange County. *Id.* at 231. They continued talking about Bella becoming Moses’ prostitute. *Id.* at 201. On April 27, a female undercover officer posing as Bella called Defendant and they tried to arrange for Moses to pick Bella up. Clerk’s Transcript (hereafter CT) at 673. On May 10, now three weeks after Defendant learned Bella was seventeen, they decided he would drive to Orange County and she would evade her current pimp and abscond with Defendant. *Id.* at 689.

Moses drove to the restaurant but, once there, he spotted officers staking out the location. *Moses*, 251 Cal. Rptr. 3d at 465. He sent a final text to Bella, saying he suspected she was fake and that he was being set up and then he left. *Id.* Officers followed him and shortly thereafter conducted a traffic stop and arrested Defendant for attempted pimping of a minor. RT at 121.

PROCEDURAL HISTORY

After a jury trial, Defendant was convicted of trafficking a minor (count 1, § 236.1(c)); attempted pimping of a minor (count 2, §§ 664, subdivision (a); § 266h, subdivision (b)(1)), and pandering (count 3, § 266i, subdivision (a)). On appeal, a divided panel of the Fourth District Court of Appeal overturned the section 236.1(c) conviction, holding that an actual minor was a necessary element of the attempt and completion prongs of subdivision (c). *Moses*, 251 Cal. Rptr. 3d at 466.

The court in *Moses* relied heavily on the First District’s reasoning in *People v. Shields*, 233 Cal. Rptr. 3d 701 (Cal. Ct. App. 2018). *Shields* was the first to address whether an attempt under section 236.1(c) requires an actual minor. The defendant in that case was convicted of attempting to sex traffick a minor despite the fact that the individual he had been communicating with online was an undercover police officer. *Id.* at 702-3. *Shields* held that attempted sex trafficking under section 236.1(c) required an actual minor. *Id.* at 712.

After *Shields* and *Moses*, the Fourth District in *Clark* broke with both and held that an actual minor was not required under the attempt prong of section 236.1(c). *People v. Clark*, 256 Cal. Rptr. 3d 459, 468 (Cal. Ct. App. 2019). Like those in *Shields* and *Moses*, the defendant in *Clark* communicated online with an undercover police officer posing as a minor. *Id.* at 464. The *Clark* court found that “attempt” is a term of art which is governed by section 21a. *Id.* at 469. As a result, section 236.1(c)’s attempt prong requires only a specific intent to commit the crime and a “direct but ineffectual act” done toward its commission. *Id.* Thus, no actual minor is required.

ARGUMENT

Standard of Review

This case concerns statutory construction, which is a pure question of law, for which the standard of review is de novo. This Court need not defer to the lower court's determinations. *People ex rel. Lockyer v. Shamrock Foods Co.*, 11 P.3d 956, 968 (2000).

Overview

This Court should reverse the lower court's holding because statutory construction confirms that a minor victim is not required under the attempt prong of Section 236.1(c). That section reads, in relevant part, "[a] person who causes, induces, or persuades, or attempts to cause, induce, or persuade, a person who is a minor at the time of commission of the offense to engage in a commercial sex act . . . is guilty of human trafficking."

In California, statutory interpretation proceeds along a three-step process: "we first look to the plain meaning of the statutory language, then to its legislative history and finally to the reasonableness of a proposed construction." *Riverview Fire Prot. Dist. v. Workers' Comp. Appeals Bd.*, 28 Cal. Rptr. 2d 601, 605 (1994). First, the plain meaning of section 236.1(c)'s attempt prong does not require an actual minor. "Attempt" is a term of art under section 21a, which must be incorporated unless the legislature explicitly states otherwise. When section 21a is incorporated, the only necessary elements of an attempt are those that are outlined in section 21a—specific intent and an ineffectual act.

Second, the legislative history of 236.1(c) demonstrates that the drafters did not intend for an actual minor to be required under the attempt prong. Their primary goals were preventing sex trafficking and protecting minors by enabling law enforcement and increasing punishments.

Drafters also explicitly intended for section 236.1(c) to mirror the federal enticement statute, which does not require the presence of an actual minor under an attempt.

Finally, an actual minor should not be necessary under the attempt prong because liability should not turn on the fortuitous mistake of morally bankrupt criminals. Instead, it should be based on intent and blameworthiness. Additionally, vulnerable populations should be aggressively protected, which requires preventative and deterrent measures.

1. The plain language of section 236.1(c) does not require an actual minor for an attempt.

Moses violated section 236.1(c) because the attempt prong does not require existence of a minor victim. First, section 236.1(c)'s attempt prong is governed by section 21a, which defines "attempt" as a term of art. Terms of art must be incorporated into statutes that use such terms unless the legislature explicitly states otherwise. Second, courts have long incorporated section 21a into criminal statutes; when they do, the only elements required for an attempt under the governing statute are those of section 21a. Third, incorporating 21a establishes the intent standard and unavailable defenses for the attempt prong, which are otherwise unaccounted for.

a. "Attempt" is a term of art which must be incorporated unless the legislature explicitly states otherwise. It has only two elements.

"Attempt" is a term of art with two elements: "a specific intent to commit the crime, and a direct but ineffectual act done toward its commission." § 21a. Terms of art *must* be incorporated into statutes that use those terms. § 7(16). Beyond section 7(16)'s unequivocal mandate, there are several other reasons why this Court should presume that section 21a is to be incorporated.

First, the burden rests with the drafters to explicitly say when they do *not* intend a term of art to be incorporated since terms of art attach in the "absence of contrary direction," not the other

way around. *Morrisette v. United States*, 342 U.S. 246, 250 (1952). The electorate that enacted section 236.1(c) did not explicitly state a desire not to incorporate section 21a.

Second, “[w]hen the Legislature uses a term of art, a court construing that use must assume that the Legislature was aware of the ramification of its choice of language.” *People v. Gonzalez*, 392 P.3d 437, 446 (Cal. 2017). In other words, the legislature presumably “knows and adopts the cluster of ideas that [are] attached” to special terms. *People v. Miramon*, 189 Cal. Rptr. 3d 432, 439 (Cal. Ct. App. 1983). This presumption is reasonable here since section 21a was passed roughly twenty years before section 236.1(c), and has been invoked in hundreds of cases since.

Third, this Court has repeatedly imported section 21a’s definition of “attempt” into other criminal statutes over the thirty-four years since its passage. *See, e.g., People v. Garton*, 412 P.3d 315 (Cal. 2018) (importing section 21a into section 187); *People v. Chandler*, 332 P.3d 538 (Cal. 2014) (section 422(a)); *People v. Rundle*, 180 P.3d 224 (Cal. 2008) (section 261(a)(2)); *People v. Medina*, 161 P.3d 187 (Cal. 2007) (section 209.5(a)). “It is a well-recognized rule of construction that after the courts have construed the meaning of any particular word . . . and the legislature subsequently undertakes to use these exact words in the same connection, the presumption is almost irresistible that it used them in the precise and technical sense which had been placed upon them by the courts.” *People v. Lopez*, 103 P.3d 270, 273 (Cal. 2005) (citation omitted).

b. When courts incorporate general attempt statutes like section 21a into governing statutes the only elements required are those of the general attempt statute.

When section 21a is incorporated, a defendant need not satisfy all elements of the completed crime under the governing statute. *E.g., Medina*, 161 P.3d at 191 (“Other than forming the requisite criminal intent, a defendant need not commit an element of the underlying offense.”); *People v. Gonzalez*, 2015 WL 2195116, at *2 (Cal. Ct. App. 2015). *People v. Baker*, No. D074463, 2019 WL 422297, at *6 (Cal. Ct. App. 2019). In *Medina*, this Court, applying section 21a, found

that carjacking, a necessary element of the completed crime of kidnapping during commission of a carjacking, was not required for an attempt. 161 P.3d at 187. The court in *Gonzalez* found the element of force or fear, otherwise required for a robbery conviction, is unnecessary for an attempted robbery. 2015 WL 2195116, at *2. And in *Baker*, although the defendant made no attempt to grab or threaten his victim, a necessary element of kidnapping for purposes of committing a lewd act on a minor, he was still guilty of an attempt. 2019 WL 422297, at *6.

c. Incorporating section 21a establishes the defenses and intent standard for section 236.1(c)’s attempt prong, which are otherwise unaccounted for.

Section 236.1(c) is silent with respect to the attempt prong’s intent standard and defenses. Subdivision (f) establishes both for subdivision (c)’s *completed act* prong but it logically cannot do so for the attempt prong. But section 21a can. Thus, incorporating section 21a complements subdivision (f) by shoring up an otherwise glaring hole in the structure of section 236.1.

Subdivision (f) establishes a general intent standard for the completed act prong by foreclosing a mistake of fact defense.³ If a defendant *actually* traffics a minor, it does not matter whether they specifically intended to do so. *See People v. Bailey*, 279 P.3d 1120 (Cal. 2012); *Gallegos*, 114 Cal. Rptr. At 168 (“Lack of a specific intent . . . is not a valid defense where a completed [crime] has occurred.”) (citation omitted).

But attempt crimes require specific intent: for example, one cannot attempt to traffic a minor specifically without intending to traffic a minor. Thus, a mistake of fact defense should be available against a charge of criminal attempt. *See Reed*, 61 Cal. Rptr. 2d at 661; *People v. Hanna*, 160 Cal. Rptr. 3d 210, 214 (Cal. Ct. App. 2013) (finding that a mistake of fact defense is available

³ “Mistake of fact as to the age of a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section.” § 236.1(f).

to the crime of attempting to commit a lewd act on a child under 14 since committing a lewd act on an adult would not have been criminal). If a defendant is charged with attempted sex trafficking of a minor, yet they raise a mistake of fact defense, it means they thought their intended target was an adult and they did not have the specific intent required for an attempt to traffic a minor.

Section 21a, on the other hand, forecloses a defense of factual impossibility. *Moses*, 251 Cal. Rptr. 3d 462; *Shields*, 233 Cal. Rptr. 3d 701; *Clark*, 256 Cal. Rptr. 3d 459. Courts have long reiterated that factual impossibility is no defense to a criminal attempt. *See Chandler*, 332 P.3d 538; *Foster*, 65 Cal. Rptr. 3d at 872 (“where a defendant makes an attempt to commit the offense, it is immaterial that for some collateral reason he could not complete the intended crime.”) (citation and internal quotation marks omitted). Subdivision (c)’s attempt prong is no different. If someone like *Moses* intended to traffic a minor and attempted to do so, it is immaterial whether it was, in fact, impossible for them to complete the crime.

In short, sections 21a and 236.1(f) together ensure two distinct types of criminals are accountable under section 236.1(c): those that attempt *and* intend to sex traffic minors, even if they are mistaken about the presence of an actual minor, and those who attempt to sex traffic an adult yet mistakenly traffic a minor. Together, these sections protect potential minor victims as well as actual minor victims. But without section 21a, someone like *Moses*, who attempts to sex traffic minors, but is fortuitously unsuccessful, could skirt liability under section 236.1(c).

d. The *Moses* court’s interpretations of the statute are unavailing.

First, the court in *Moses* questioned why the drafters, if they intended not to require an actual minor, did not add language such as “a person who is a minor *or is reasonably believed to be a minor*.” 251 Cal. Rptr. 3d at 470. But such language is both redundant or inapplicable since sections 21a and 236.1(f) foreclose factual impossibility and mistake of fact defenses, respectively.

Therefore, “reasonably believed” language would be redundant under the attempt prong since a defendant who intends and attempts to traffic a minor must believe the person to be a minor. And it would be inapplicable under the completed act prong since that crime is strict liability.⁴

Second, the *Moses* court did not interpret the law based on plain meaning. *See Pub. Citizen v. United States Dep’t of Justice*, 491 U.S. 440, 469 (1989) (“Reluctance to working with the basic meaning of words in a normal manner undermines the legal process”). The court instead reasoned that *attempting* to traffic a minor is a “nonattempt offense” since completing an attempt under section 236.1(c) is to have completed a crime. 251 Cal. Rptr. 3d at 473 (Aronson, J., dissenting in part, concurring in part). This is linguistically untenable.

Similarly, the court found that, because no actual minor was present, Defendant only *attempted* to attempt. *Id.* at 470. But this “logical merry-go-round” is nonsensical. *Gallegos*, 114 Cal. Rptr. At 167. Put plainly, “an attempt to attempt . . . is simply absurd.” *In re James M.*, 510 P.2d 33, 35 (Cal. 1973). Indeed, “there is no such crime as an attempt to attempt.” *Moses*, 251 Cal. Rptr. 3d at 475 (Aronson, J., dissenting in part, concurring in part). Instead, “Moses actually committed the conduct proscribed in the attempt prong of section 236.1, subdivision (c); he did not attempt to do so.” *Id.* At bottom, “that the minor does not exist means only that the attempt failed.” *Clark*, 256 Cal. Rptr. 3d at 470; *see also People v. Collom*, 265 Cal. Rptr. 3d 705, 711 (Cal. Ct. App. 2020); *People v. Korwin*, 248 Cal. Rptr. 3d 763 (Cal. Ct. App. 2019).

⁴ Some analogous statutes, such as section 288.3, do include qualifying language. *See* § 288.3 (“knows or reasonably should know that the person is a minor”). But section 288.3 does not explicitly foreclose a mistake of fact defense. Therefore, its qualifying language does the work that section 236.1(f) does for section 236.1(c).

2. Legislative history of section 236.1(c) shows the legislature did not intend to require presence of an actual minor for an attempt conviction.

The legislative history of section 236.1(c) is clear: an actual minor is not required under the attempt prong since the drafters were particularly focused on prevention and punishment. The Act's Findings and Declarations note "[w]e need stronger laws to combat the *threats* posed by human traffickers and online predators." CASE Act § 2.5 (emphasis added). Its intent is to "ensure just and effective punishment of people who *promote* or engage" in human trafficking. *Id.* at § 3.1 (emphasis added). There is no doubt that Defendant embodies a serious threat as a predator and furthered sex trafficking of minors.

Moreover, the CASE Act takes aim at online sex trafficking specifically, emphasizing that "the predatory use of [the internet] by human traffickers and sex offenders has allowed such exploiters a new means to entice and prey on vulnerable individuals in our state." § 2.4. Yet, by the *Moses* court's reasoning, police would not be able to run successful internet stings that lead to convictions under the statute. Instead, they would be required to either wait until minor victims materialized before charging under the statute or to use actual minors in their sting operations, putting them "in harm's way." *Moses*, 251 Cal. Rptr. 3d at 477 (Aronson, J., dissenting in part, concurring in part). Both of these options are abhorrent to the legislative purpose. On the other hand, finding that an actual minor is not required under the attempt prong would "advance[] the statutory purpose of supporting law enforcement officers who use undercover measures to identify, deter, and punish [] predators." *Korwin*, 248 Cal. Rptr. 3d at 769.

The drafters also explicitly intended for section 236.1(c) to mirror the federal enticement statute. § 236.1(g). The federal analog establishes harsh penalties for anyone who "knowingly persuades, induces, entices, or coerces any individual who has not attained the age of 18 years, to

engage in prostitution . . . or attempts to do so.” Coercion and enticement, 18 U.S.C. § 2422(b) (2006). This language is conceptually identically to section 236.1(c).

Yet, under the federal statute, an actual minor is not required for an attempt, *United States v. Meek*, 366 F.3d 705 (9th Cir. 2004), despite the seemingly necessary element of an “individual who has not attained the age of 18 years.” That a sex trafficker’s crime does not “[ripen] into a completed offense is no obstacle to an attempt conviction.” *United States v. Root*, 296 F.3d 1222, 1227 (11th Cir. 2002). Legislators, intending to mirror the federal enticement statute, undoubtedly meant an actual minor to be likewise unnecessary under the attempt prong of section 236.1(c).

Finally, and more generally, courts have found that statutes aimed at protecting minors from sexual exploitation occupy a “special context” in which perpetrators need not know whether their intended victim is in fact a minor. *United States v. Daniels*, 685 F.3d 1237, 1248 (11th Cir. 2012). Individuals who attempt to sex traffic minors do so at their own peril: “*belief* that a minor was involved is sufficient to sustain” an attempt. *Root*, 296 F.3d at 1227 (emphasis added).

3. Policy considerations and commonsense both support finding that a minor is not required under the attempt prong.

First, liability sex trafficking minors should turn on the bad actor’s intent rather than luck because voters on the CASE Act considered an attempt and a completed act equally blameworthy. Second, policy considerations support strongly deterring and preventing sex trafficking of minors, who are a particularly vulnerable group. To that end, police should be empowered to aggressively combat sex trafficking, and sex traffickers, whether successful or not, should be harshly punished.

a. Attempting to sex traffic minors is a heinous act for which punishment has been based on intent, not luck.

Liability under section 236.1(c) should not turn on the dumb luck of a criminal attempting to traffic someone they believe is minor but who, fortuitously, is not. *See Reed*, 61 Cal. Rptr. 2d at

660-61. Otherwise, it would be an unjustified windfall for criminals like Moses who are “equally culpable” as those whose victims turn out to be actual minors. *See Meek*, 366 F.3d at 718. Indeed, Moses did all the acts necessary to complete the crime “under the circumstances, as he reasonably [saw] them.” *People v. Meyers*, 28 Cal. Rptr. 753, 756 (Cal. Ct. App. 1963) (citation omitted). And he had the “requisite mental state of having reason to know the individual [was] a minor.” *Korwin*, 248 Cal. Rptr. 3d at 768.

That said, it is true that attempts are often punished less severely than completions (since they often do not result in harm to a victim). But not when the legislature deems otherwise, as it did here by punishing attempts and completions equally. Violators of each prong are “equally blameworthy in the eyes of the statute.” *Clark*, 256 Cal. Rptr. 3d at 471. Thus, section 236.1(c) is concerned with an attempter’s bad intent rather than the presence of an actual minor victim.

Courts emphasize intent and moral blameworthiness when interpreting laws that address the intersection of sex crimes and minors in particular. CRIMINAL LAW AND ITS PROCESSES 292-93 (Sanford H. Kadish et al. eds., 10th ed. 2017); *see also Korwin* 248 Cal. Rptr. 3d at 768. In *Korwin*, the defendant exchanged sexually explicit messages online with someone he believed was a thirteen- or fourteen-year-old girl but who was instead an undercover police officer. 248 Cal. Rptr. 3d at 764. When Korwin went to meet the girl, he was arrested for attempting and intending to commit lewd acts on someone he had reason to know was a child, in violation of section 288.3. *Id.* Like section 236.1(c), section 288.3 includes a minor as a seemingly necessary element; yet the court found that no actual minor was required. *Id.* at 767.

b. Protecting potential minor victims requires strong policies of prevention and deterrence.

Section 236.1(c) is written so as to vigorously prevent sex trafficking and deter would-be sex traffickers. This is consistent with California’s “strong public policy to protect children.”

People v. Olsen, 685 P.2d 52, 57 (Cal. 1984). But in order to prevent sex trafficking and deter sex traffickers, courts must empower law enforcement, not hinder them. At the same time, however, both sex traffickers and their victims can be extremely difficult to track online and over social media. To that end, increasing punishments for mere attempts “would protect actual minors because it would deter criminals who expressly target minors.” *Moses*, 251 Cal. Rptr. 3d at 477. (Aronson, J., dissenting in part, concurring in part).

On the other hand, holding that an actual minor is required under the attempt prong would run counter to our policy of protecting minors since it would leave available a reduced sentence under section 664, which generally provides half-term punishment for failed criminal attempts. This would have a weaker preventative and deterrent effect. But holding that an actual minor is *not* required under the attempt prong would nullify section 664’s reach since one who attempts to sex traffic a minor will not be able to seek a reduced sentence based on their fortuitous failure.

CONCLUSION

For the aforementioned reasons, this Court should hold that conviction of an attempt to traffic minors for commercial sexual exploitation under 236.1(c) does not require the presence of an actual minor. As a result, the Fourth District Court of Appeal ruling should be overturned and Defendant’s section 236.1(c) conviction should be reinstated.

Applicant Details

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 Law Review/Journal **Yes**
 Journal(s) **American University International Law Review**
 Moot Court Experience **Yes**
 Moot Court Name(s) **Frankfurt Investment Arbitration Moot Court**

Bar Admission

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- Katherine and I worked closely together at the UN International Law
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- Rebecca LeGrand has seen my legal writing skills improve first-hand

and has helped me shape them, as I was one of her Legal Rhetoric students and now work for her at her firm.

This applicant has certified that all data entered in this profile and any application documents are true and correct.

August 24, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige, Jr.
U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

Here I humbly submit my application for a clerkship with your chambers at the United States District Court for the Eastern District of Virginia for the 2021-2023 term. I am currently a rising 3L at the Washington College of Law. I am particularly interested in clerking in Virginia because my fiancé currently works at the Water Service Authority in Woodbridge, VA.

I am confident that I would make a meaningful contribution to your chambers. I learn quickly and approach issues with an open mind. As a special legal assistant at the International Law Commission of the United Nations in Geneva, I worked with a team to dissect the details of various multifaceted international legal principles. The work was both fast-paced and required meticulous attention to detail due to the political nature of the work. I have also worked for two D.C.-based law firms where I have written memoranda, motions, praecipes, petitions post-appointment, and other court and client documents. I have also written three comments throughout my legal education, all of which strengthened my legal research and writing abilities.

Further, I participated in the Frankfurt Investment Arbitration Moot Court Competition based in Frankfurt, Germany. This competition required substantive research into international investment procedures and a deep understanding of a 40-page fact pattern. This competition provided me with the skills to research complex international issues and be able to advocate both sides of an issue, skills which would translate well into a clerkship in your chambers. I hope that I can continue the development of my legal skillset in your chambers and contribute to chamber discussions, as well.

Regardless of the field of law in which I find myself, I enjoy wading through minutiae in order to achieve a just result. While I am still exploring where I want to end up in the future, I work hard to serve others in the present. This is exemplified most prominently in my election to two executive board positions for my 3L year; one on the International Law Review and another on the Alternative Dispute Resolution Honor Society. I have also helped start and operate my law school's first community garden to help care for the student body's collective mental health, which, as a queer, female, immigrant law student, I value deeply. While these experiences have helped define my legal skills, I know that the best training I could receive is yet to come in the form of a clerkship.

Please let me know if I can provide any additional information. I appreciate your consideration and welcome the opportunity to speak with you further.

Respectfully,

Anna Isernia

Anna Isernia

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EDUCATION

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GPA: 3.55 (Top 25%)

Honors: Capital Merit Scholarship for Outstanding Academic Achievement for Full Tuition; *International Law Review* (Vol. 36, Executive Symposium Director); Alternative Dispute Resolution Honor Society (Executive Marketing Director); Best Oralist in Legal Rhetoric Appellate Arguments

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Study Abroad: International Criminal Law Program in the Hague, the Netherlands (Summer 2019)

Colorado State University

Bachelor of Arts in International Studies

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May 2015

Focus: Asian Studies, minor in Mandarin

Honors: Dean's List (May 2011-May 2015)

Study Abroad: Chinese Language and Culture at East China Normal University in Shanghai, China (Summer 2014)

EXPERIENCE

Center for International Environmental Law

Legal Intern

Washington, D.C.

September 2020 – December 2020

Researching and writing about areas of international law and policy; assisting with policy analysis and advocacy; attending meetings and conferences; assisting with the production of CIEL publications; and otherwise working closely with CIEL staff on various projects.

del-Cuadro, Zimmerman & Mount

Summer Law Clerk

Washington, D.C.

May 2020 – August 2020

Helped low-income individuals and families in poverty through legal and administrative work. Prepared court motions, exhibits, and client documents. Worked amicably in a team with partners at the firm and multiple other law clerks. Prepared a research project on the duties of legal guardians of unaccompanied minors that have absconded.

LeGrand Law, PLLC

Legal Assistant

Washington, D.C.

August 2019 – May 2020

Performed extensive research in copyright and patent law, drafted memoranda and trial motions, including a motion for summary judgment. Wrote and filed pre-trial litigation documents and memoranda, including a motion to dismiss based on personal jurisdiction.

United Nations International Law Commission

Legal Intern

Geneva, Switzerland

June 2019 – August 2019

Prepared memoranda concerning state succession and the immunity of state officials for the Draft Commissioner to read into the record of the UN for the 71st Session of the International Law Commission. Attended daily commission meetings to take notes to enable the Draft Commissioner to respond tactfully to the diverse concerns of various constituents. Wrote a legal analysis on how to prosecute China for the destruction of Uyghur cultural property under UNESCO cultural heritage protections.

OTHER SKILLS

Languages: German, Italian (native); Mandarin, French (beginner – intermediate)

Interests: Boxing; Playing ukulele and singing; Knitting complex sock patterns

Anna Isernia
American University, Washington College of Law
Cumulative GPA: 3.55

Fall 2018

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Civil Procedure	Jeremi Duru	B	4	
Contracts	Kenneth Anderson	A-	4	
Torts	Paul Figley	A-	4	
Research & Writing I	Rebecca LeGrand	B+	2	

Spring 2019

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
International Law	Diane Orentlicher	A-	3	
Criminal Law	Ira Robbins	A-	3	
Property	Heather Hughes	B+	4	
Constitutional Law	Stephen Wermiel	B+	4	
Research & Writing II	Rebecca LeGrand	A-	2	

Summer 2019

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
International Criminal Law: Accountability	Susana SaCouto	A-	3	
Legal Research Project	Claudio Grossman	A-	2	
International Legal Approached to Terrorism	Jayesh Rathod	B	3	

Fall 2019

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
International Law Review I			2	
Criminal Procedure I	Angela Davis	A-	3	
Evidence	Edward Correia	A	4	
Federal Public Lands & Natural Resources	William Snape	A	3	

GPA of a 3.910 for Fall 2019

Spring 2020

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
A.D.R. EXEC Board		P	1	
A.D.R. Competition		P	2	
Criminal Trial Advocacy	Judge Eric Johnson & John Ewers	P	3	

BIT Arbitration	Caroline Richard, Nigel Blackaby, & Lindsay Gastrell	P	2
International Business & Environment	David Hunter	P	3
Legal Ethics	Joseph Pileri	P	2

Grading System Description

Spring Semester of 2020 was pass/fail due to COVID-19.

August 24, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige, Jr.
U.S. Courthouse
701 East Broad Street, 5th Floor
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Dear Judge Hanes:

I am writing to recommend Ms. Anna Isernia for a clerkship in your office. Ms. Isernia was a high performing student in my International Business and Environmental Law class this past semester. She wrote an excellent, well-researched and analytical paper on eco-labelling regimes for certifying the sustainability of wool fibers used by knitters. It was a serious, creative, and ultimately publishable paper inspired by her own passion for knitting. She was also a positive contributor to the class throughout the semester, even when the class switched to be online and pass/fail. Her presentation of the paper was the last of 20 student presentations and it totally engaged the whole class in a creative mix of block chain technology, eco-labelling, sheep husbandry, and knitting..

I have also had many conversations with Ms. Isernia, particularly in her role as the incoming Symposium Editor for the AU International Law Review's symposium, which will address international environmental law. I have found Ms. Isernia thoughtful and engaging, with a positive, cosmopolitan world view. She is hard working, professional and respectful. She also demonstrated excellent leadership and communication skills in being one of two students who led a successful effort to get the school to support an on-campus community garden.

In sum, I believe Anna Isernia would be a terrific judicial clerk and a positive addition to any judicial chambers. Should you have any questions, please do not hesitate to contact me.

Sincerely,

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August 24, 2020

The Honorable Elizabeth Hanes
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Dear Judge Hanes:

I write to offer my wholehearted recommendation for Anna Isernia, an outstanding student who is seeking to clerk with you next year. I met Anna in 2018 while teaching legal research and writing at Washington College of Law as an Adjunct Professor. I was fortunate to have a remarkable group of students in my section, and Anna was among the best of them.

Anna's written work displayed a clarity and style uncommon in first-year legal writing. Anna's oral advocacy and contributions to classroom discussions were, if anything, even more impressive. Among other achievements, Anna and her teammate were nominated to participate in class-wide oral arguments, after Anna did a stellar job defending her position in the face of difficult questioning.

Anna's classroom presence also made her a pleasure to teach. Her positive attitude and smart and lively engagement in classroom discussions benefited the entire class and made her a memorable and valued student.

I had the chance to observe Anna's work in a real-world setting as well when Anna worked part-time as a law clerk at my firm during the 2019-20 school year. My small firm represents individuals and small businesses in complex civil and criminal litigation in a number of different jurisdictions. Most of our cases are in federal district courts, but we also represent parties in state court litigation in Maryland, Virginia, and at times farther afield. It's challenging work as we tackle a wide variety of legal issues, and are often up against much larger opponents.

We strive to efficiently tackle complex issues with a small staff, and Anna made majors contributions to our work last year. Among other memorable contributions, Anna researched and drafted key arguments in a motion for summary judgment filed in the Eastern District of Virginia, showing the opposing party was not entitled to statutory damages for copyright infringement. Anna also drafted the answer and counterclaims filed in a Maryland state breach of contract case. She approached that task with creativity and strong writing that compellingly presented our client's position, and provided important context to the court.

Anna also pitched in with less glamorous tasks at our office, helping us settle in to a new office space, and anticipating what we would need to work effectively. In short, Anna was a huge asset to our firm, even in a part-time role. Indeed, I was particularly impressed by Anna's ability to devote herself to our firm's work while simultaneously managing a busy class load and extracurricular activities.

Anna's dedication and hard work—first as my student, and later as a law clerk at my firm—benefitted both her classmates and our clients. She was a pleasure to work with, and I have no doubt she would likewise be a valued, and utterly charming, member of your chambers.

I would be overjoyed to sing Anna's praises in even more detail if you have any additional questions. Feel free to contact me anytime by phone at (202) 587-5725, or via email at my address above. Thank you for your consideration.

Sincerely,

Rebecca S. LeGrand
LeGrand Law PLLC

Rebecca LeGrand - rebecca@legrandlaw.com

A n n a I s e r n i a

4 1 2 0 E d m u n d s S t . N W , A p t . 2 0 3 , W a s h i n g t o n , D . C

D e a r K o b a y a s h i e

B e l o w y o u w i l l f i n d m y w r i t i n g s a m p l e , a n d m y j u d g m e n t . S o m e o f t h e t e x t h a s b e e n r e d a c t e d b y t h e E a s t e r n D i s t r i c t o f V i r g i n i a . I a m p r o v i d i n g t o m y s u p e r v i s i n g a t t o r n e y o n t h i s c a s e , R e b e c c a L e e , t h e e d i t e d e n t i r e l y b y m e .

T h i s c a s e i n v o l v e s a d i s p u t e o v e r a p h o t o g r a p h o f t h e P l a i n t i f f ' s p r o d u c t . C o u n t s I I a n d I I I o f X I I a n d t h e p r o d u c t i o n o f a p r o d u c t s i m i l a r t o t h e p u b l i c a t i o n , a n d r e g i s t r a t i o n o f t h e p h o t o g r a p h w i t h t h e C o p y r i g h t O f f i c e u n t i l o v e r a y e a r a g o .

D e f e n d a n t s h a v e n o t a d m i t t e d l i a b i l i t y f o r m u l t i p l e t i m e s . T h e D e f e n d a n t s ' p r i m a r y i n t e r e s t w o u l d a w a r d t h e P l a i n t i f f m o r e t h a n t h i r t y t i m e s . I h o p e y o u e n j o y r e a d i n g t h i s e x c e r p t , a s I e n j o y r e a d i n g y o u r l e t t e r s .

R e s p e c t f u l l y ,


A n n a I s e r n i a

IN THE UNITED DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION

██████████ SOLUTIONS, LLC,

Plaintiff,

v.

Case ██████████

██████████ CAL, LLC,

ET AL

Defendants.

MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56 for partial summary judgment because the undisputed facts of the Plaintiff's claims cannot be established. Summary judgment could find for the Plaintiff on these matters.

LEGAL STANDARD

The purpose of a motion for summary judgment is to "dispose of claims" before trial in *See Celotex Corp. v. U.S. Patent & Trademark Office*, 477 U.S. 317, 323-24 (1986). Pursuant to Rule 56 of the Federal Rules of Civil Procedure, summary judgment should be granted "if the pleadings, depositions, answers to interrogatories, and affidavits show that there is no genuine issue of material fact." Fed. R. Civ. P. 56(c). When the nonmoving party fails to make a showing of an essential element of a claim, the court may grant summary judgment. Fed. R. Civ. P. 56(c). Furthermore, a motion for summary judgment [relies] on . . . conclusory allegations, mere

another, or the mere existence of *Adams* in the
Columbia Gas Transmission Corp. v. Columbia Gas Transmission Corp., 700 F.2d 1004 (E.D. Cal. 1982),
 omitted *Adams v. Lippert*, 802 F.2d 1252 (1986).

Summary judgment is appropriate for “any party
Nw. Mut. Life Ins. Co. v. Fidelity Nat'l Bldg. Corp., 838 F.2d 1045 (9th Cir. 1988),
 Fed. R. Civ. P. 56(c)(2). Complex litigation with numerous parties
 a summary judgment that can provide “an efficient
 phase I summary judgment is also appropriate for
 remedy like statutory damages when “there is no
 discretion in *BeM Co. v. Muis*, 892 F.2d 1088 (9th Cir. 1988),
 (*Clifford's, Inc. v. G207 Men's Clothing Co.*) (1st

ARGUMENT

I. Copyright Infringement Reproduction

Count II, Copyright Infringement Reproduction
 alleged use of the images covered by Copyright
 registration”). Complaint (Dkt. No. 1) at ¶¶ 1-3.
 statutory damages due to the Plaintiff's failure to
 Copyright Act states that:

[N]o award of statutory damages or of an award of

- (1) any infringement of copyright in a work
 - (2) any infringement of copyright in a work
- publication of the work and before registration, unless the work is published after the first publication

17 U.S.C. § 412 (2) *see (X-17) 17 U.S.C. v. Wal*
Equip., 2017 F. Supp. 2d 494, 527-28 (E.D. Va. 2017)
 attorney's fees due to the late copyright registration infringement).

A. The Plaintiff cannot receive statutory damages of protected images because the alleged registration.

Section 412 of the Copyright Act incentivizes and punishes infringers by allowing statutory damages for infringers of a registered work. Importantly, “a plaintiff may recover statutory damages for infringement which include costs and attorneys’ fees, for infringement commenced prior to the effective date of registration, even if the infringement continues after the effective date of registration.” *Id.* F. Supp. 2d at 527-528 (emphasis added).

The Fourth Circuit, like others, holds that Section 412, when the first act in a series of acts covers the work, is appropriate to treat the earliest date of infringement as the date of registration. *Id.* 494, 506 (6th Cir. 2017). That post-registration activities make no difference in a series of acts, thus making statutory damages

¹ Section § 412 allows statutory damages to be awarded in cases of copyright infringement. 17 U.S.C. § 408(f) (“In any case in which the plaintiff did not preregister the work at issue, the court may, in its discretion, award statutory damages in lieu of actual damages.”). 17 U.S.C. § 412 (emphasis added). That Plaintiff did not preregister the work at issue

4

**B. S t a t u t o r y d a m a g e s a r e n o t a v a i l a b l e u n d e r
f a i l e d t o r e g i s t e r t h e i m a g e s a t i s s u e i n**

The Copyright Act rewards owners of copyright frequently by allowing courts to award statutory damages, however, there can be no statutory damages awarded commenced after first publication of the work unless such registration is made within three years of first publication. U.S.C. § 412 (2). Congress intentionally granted this right to those who register their copyrights timely, which to timely register their copyrights that they became precluded from the extraordinary damages available under U.S.C. § 412 (2). Explaining that the Copyright Act was added to take into account newsworthy or otherwise important works that were published and not registered (their claim).

Plaintiff claims that the images submitted an initial mat² Regat² l² e s s i s , d i v e p u t i f b l t h e i m a g e s Plaintiff would have had to register them before November of 2015, which Plaintiff did not do. no statutory damages awarded for infringement occurred before registration). Similarly, und

2 “ ‘ Publication ’ is the distribution of copies
further distribution ” 17 U.S.C. § 101
published if it is available in *Circuit Court of Appeals for the
Registration of Web Sites and Copyrights* (2019) content,
<https://www.copyright.gov/circs/circ66.pdf>. The
format, a physical flyer made by the Defendant
the public on its website as early as April 20
(internet archive screen capture). The required

claim statutory damages under § 412(2) if it is made three months after the April 2015 publication. September of 2016. Complaint (Dkt. No. 1) at 10.

Plaintiff is therefore precluded from collecting because it failed to promptly register the images regardless of the questionable publication status.

II. Count III – Copyright Infringement Market

Count III of the Complaint, Copyright Infringement, covers the same images covered by Count II but claims that the product sold is the unauthorized infringing work. Plaintiff is not convinced that the product created by the Defendants' product is a manufactured useful article, and thus is not copyright. As such, this claim should be dismissed.

A. Plaintiff has conflated copyright law with summary judgment on this Count.

Copyright and patent law cover separate fields. Copyright law is designed to “promote the creation and distribution of knowledge” and protects only the expression of ideas, not the ideas themselves. See *Feist Publications, Inc. v. Rural S. News Service, Inc.*, 517 U.S. 213, 219 (2003); 1 *Marble v. C. 3*, 47 F.2d 217 (1954). Copyright balances the competing needs of the right to create and the right to disseminate information. *See* *Wheat v. Pledge*, 239 U.S. 271 (1915); *Feist*, 517 U.S. 213 (2003). Copyright protection does not “extend to any idea . . . explained, illustrated, or embodied . . .” 17 U.S.C. § 102(b). It protects an author's original expression, but not the

The notes of the House Committee on the Judiciary, or sculptural work, portraying a useful manufacture of the useful article. The House Committee found that the copyright of the picture manufacture of the dress, and the copyrighted machine would not protect against the manufacture of the same. 9th Cong., Rep. of the Register of Copyright U.S. Copyright Law (1961). In implementing the law, it was held that any article with an intrinsic utilitarian character, having no identifiable artistic features, is not eligible for copyright protection. *In re El, D609r7a dFo. 2Cdo r8p9.0*, 893 (9th Cir. 1983) (articles "lacking any artistic feature identifiable as such"). A useful article is defined as "an article, other than a literary, musical, dramatic, or pictorial work, which is designed to portray the appearance of the article." Useful articles are not eligible for copyright protection. *S.E. Pean - American Prods. & Holdi, n g8s2, 5 LFL.C Sv. p pR. T2 702* (M.D.N.C. 2011).

Plaintiff is attempting to monopolize the impermissible use of copyright law. While copyright reproduction, it does not grant the Plaintiff depicted in *Stele7* *Un. St. Grasp* 1.02. Plaintiff objects

product similar to its own, and claims that its photograph, as well as on the Plaintiff's patent. While the product benefits from protection as the Plaintiff's photograph as a copyrighted piece of photography, not on the idea of an IV-mounted barrier. Plaintiff's reliance on copyright is misplaced. The Supreme Court holds the reigns of the manufacture of such inventions. 17 U.S.C. AREP NO. 94-2146 (1996). Plaintiff claiming that "[u]nless the

industrial product contains some element that is separable from the utilitarian aspects of that product,

The IV-Mounted Barrier has no artistic elements. It is utilitarian in its entirety, as explicitly noted by Defendant. Defendant removed Plaintiff's logo from their product, brought under copyright law as a useful article. 17 U.S.C. § 102 (stating that copyright protects original works of authorship). Plaintiff has attempted to reframe its copyright claim, Count II, resulting in an injunction that would result in the monopolization of copyright law in favor of the Defendants, and this claim dismissed. Plaintiff's claims to the improper treatment of the manufacture of the IV-Mounted Barrier as an infringement.

CONCLUSION

The Plaintiff has failed to provide any material evidence in support of Count II and Count III. As such, this Motion is granted in favor of the Defendant. The availability of statutory damages is based on the basis that the Plaintiff failed to register its trademark for statutory damages. Count III conflates copyright infringement with complete dismissal of the claim. Counsel for the Plaintiff disposes of these claims as no reasonable factfinder could find in favor of the Plaintiff.

Applicant Details

First Name **Sydney**
 Last Name **Jackson**
 Citizenship Status **U. S. Citizen**
 Email Address sydney.jackson@student.american.edu

Address

Address
Street 4550 Connecticut Ave NW City Washington State/Territory District of Columbia Zip 20008 Country United States

Contact Phone Number **9168937227**

Applicant Education

BA/BS From **Franklin & Marshall College**
 Date of BA/BS **May 2018**
 JD/LLB From **American University, Washington College of Law**
http://www.nalplawsonline.org/ndlsdir_search_results.asp?lscd=50901&yr=2010
 Date of JD/LLB **May 23, 2021**
 Class Rank **50%**
 Law Review/Journal **Yes**
 Journal(s) **American University Law Review**
 Moot Court Experience **No**

Bar Admission

Prior Judicial Experience

Judicial
Internships/ **Yes**
Externships
Post-graduate
Judicial Law **Yes**
Clerk

Specialized Work Experience

Recommenders

Robbins, Ira
robbins@wcl.american.edu
(202) 274-4235
Ridenour, Heather
hridenour@wcl.american.edu
202-274-4301

References

1) Judge Vytas Vergeer, (202) 442-9094, vytas.vergeer@dc.gov. 2) Professor Andrew Popper, (202) 274-4233, apopper@wcl.american.edu. 3) Professor Andrew Ferguson, ferguson@wcl.american.edu.

This applicant has certified that all data entered in this profile and any application documents are true and correct.

SYDNEY JACKSON

4550 Connecticut Ave NW, Washington, DC 20008
(916) 893-7227 | Sydney.Jackson@student.american.edu

August 29, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige, Jr. U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

I am a rising third-year JD/MA student at American University Washington College of Law and School of International Service. I am writing to express my interest in a judicial clerkship in your chambers for the 2021-2023 term. My interest in clerking for the court stems from my previous judicial internships at the state and federal level. However, I have a greater interest in clerking for you specifically because of the opportunity to work for a strong, female judge with steadfast judgments and previous experience as a Public Defender. The mentors I had throughout law school were essential to my growth, and your insight will prove invaluable to my experience as a new lawyer. I aspire to follow a similar path of commitment to the law.

My previous judicial experiences show that I can effectively assist the court and your case docket. Last summer, I clerked for an administrative law judge working in public benefits, where I viewed daily hearings and mediation sessions and assisted in drafting opinions. I saw an overwhelming amount of pro-se litigants and experienced first-hand how the ability to separate passion from law through extensive research and persuasive legal writing was necessary in a successful case. This summer, I had the privilege of interning at federal court, where I assisted in resolving civil actions and disentangling novel legal issues. Moreover, my internship over the past academic year shows that I can manage competing priorities in a fast-paced environment. While working at the Office of the Inspector General for the U.S. Agency for International Development I conducted extensive research to identify laws and regulations for client inquiries and assisted in drafting briefs and motions in support of litigation.

In addition to my experiences, I have exceptional legal research and writing abilities. I showcased these skills by earning a position on the *American University Law Review* through the school's write-on competition. I wrote my Comment on Fourth and Fourteenth Amendment concerns over the constant battle between security and civil liberty titled "Salute to the Red, White, and Blue: Is the Use of Facial Recognition Technology in Immigration Enforcement Necessary to Preserve National Security?" Additionally, I conducted an independent study that discusses potential CFIUS regulations of this technology titled "Tech-tonic Shifts in CFIUS: How FIRRMA is Changing the Landscape of Global Tech Companies." I believe that my work ethic and appreciation for the written word will prove beneficial to your chambers.

I am grateful for the opportunities I have had thus far in my legal career, and it would be my privilege to continue this journey as your clerk. Thank you for your time and consideration.

Respectfully,
Sydney Jackson

SYDNEY JACKSON

4550 Connecticut Ave NW, Washington, DC 20008
(916) 893-7227 | Sydney.Jackson@student.american.edu

EDUCATION

American University Washington College of Law, (Washington, DC)

Juris Doctor candidate, May 2021

Honors: American University Law Review, write-on competition

Activities: Member of the Federal Circuit Symposium Subcommittee, Vice President of the European Law Association, Communications Director of the Jewish Law Students Association

American University School of International Service, (Washington, DC)

Master of Arts in International Affairs, December 2021

Concentration in U.S. Foreign Policy and National Security

Franklin & Marshall College, (Lancaster, PA)

Bachelor of Arts in Government and Psychology, *cum laude*, May 2018

Honors: Dean's List for Academic Performance, Eta Sigma Phi Classics' Honor Society, Phi Sigma Pi National Honors Fraternity, Psi Chi Psychology Honor Society, Pi Sigma Alpha Government Honor Society, Junto Society

International Education of Students, (Freiburg, Germany)

European Union Program, January 2017 - May 2017

Coursework: German Language; Leading Across Cultures; Migration, Ethnic Minorities and Multiculturalism; EU Studies Integrative Seminar; Brexit

Advanced Studies in England, (Bath, England, UK)

Charles J.G. Mayaud Endowment Fund Summer 2016 Recipient

Coursework: British Common Law

EXPERIENCE

U.S. Court of International Trade, (New York, NY)

Judicial Intern, June 2020 - August 2020

Aided Judge Timothy M. Reif in resolving civil actions arising out of customs and international trade laws of the United States.

U.S. Agency for International Development, Office of Inspector General, (Washington, DC)

Law Clerk, September 2019 - May 2020

Worked directly with the Associate Counsels and General Counsel in responding to requests for legal assistance on audits and investigations. Topics included criminal law, administrative law, employment law, ethics, statutory interpretation, and the Freedom of Information Act.

District of Columbia Office of Administrative Hearings, (Washington, DC)

Summer Law Clerk, June - August 2019

Clerked for Administrative Law Judge Vytas V. Vergeer. Prepared draft orders and opinions, engaged in legal research, and reviewed cases in preparation for trial.

Sacramento County District Attorney's Office, (Sacramento, CA)

Undergraduate Intern, May - August 2016

Assisted in the discovery process for cases involving homicides, child abuse, and gang and hate crimes. Maintained a database of case information including schedules and defendants' criminal histories.

LANGUAGE & INTERESTS

Language Skills: German (Beginner)

Interests: cybersecurity, traveling, exploring regional cuisine, rock climbing and bouldering

Sydney Jackson
American University, Washington College of Law
Cumulative GPA: 3.34

Fall 2018

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Civil Procedure	Mark Niles	B+	4	
Contracts	Nancy Abramowitz	B-	4	
Legal Research & Writing I	Teresa Phelps	B	2	
Torts	Andrew Popper	B+	4	

Spring 2019

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Constitutional Law	Robert Tsai	B	4	
Criminal Law	Ira Robbins	A-	3	
International Law	Diane Orentlicher	B+	3	
Legal Research & Writing II	Heather Ridenour	A-	2	
Property	Ezra Rosser	A-	4	

Summer 2019

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Externship Fieldwork		P	2	
Externship Seminar	Andrew Popper	A	2	
Legal Ethics	Susan Carle	B+	2	

Fall 2019

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Advanced Externship Seminar	Leesa Klepper	P	1	
Criminal Procedure I	Carol Crawford	A-	3	
Evidene	Elizabeth Boals	B+	4	
Externship Fieldwork		P	2	
Foreign Policy: Theories of Decision Making	David Mislan	B+	3	
Law Review I		P	2	

Spring 2020

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Business Associations	Hilary Allen	P	4	
Cyber Security: Espionage, Terrorism, Crime and Terror	Eric Novotny	A-	3	
Data Visualization	William Rapp	P	1	

Inclusive Peacebuilding	Jennifer Lynne	P	1
Legal Research Project	Andrew Popper	P	3
Policing, Privacy, and Data Surveillance	Andrew Ferguson	P	2
Program Design Monitoring, Evaluation and Learning	Courtney Roberts	P	1

Washington College of Law followed a mandatory P/F policy for the Spring 2020 semester, in light of the COVID-19 public health emergency that occurred during that semester. The School of International Service adopted an optional P/F policy for Spring 2020. Spring 2020 P/F credits will be excluded from all GPA calculations, including for class rank and honors eligibility; the calculations will be conducted at the end of the spring semester as usual, using only graded credits.

Grading System Description

A student's performance in each course is expressed normally in terms of the following letter grades which have numerical equivalents for computation purposes: A or 4.0; A– or 3.7; B+ or 3.3; B or 3.0; B– or 2.7; C+ or 2.3; C or 2.0; C– or 1.7; D or 1.0; and F or 0.

August 29, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige, Jr.
U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

Sydney Jackson, a rising third-year student at American University Washington College of Law, has asked me to write a letter in support of her application to serve as your law clerk beginning in the Fall of 2021. I am happy to do so, for I know Sydney and her work very well.

Just to establish my own credibility for purposes of this recommendation, please note that I served as a law clerk at the U.S. Court of Appeals for the Second Circuit from 1973-1975, have been a law professor for forty-five years, and, since 1982 through 2015, taught the law of habeas corpus to new and veteran state and federal judges.

Sydney Jackson is terrific! You will see from her transcript that she has a 3.34 grade point average at the law school. (She is also pursuing a Master's Degree at the American University School of International Affairs.) In my opinion, Sydney is much better than her gpa might indicate. When she took my Criminal Law class in her first year, she earned the grade of A-. I am not a high grader. I would say that she was in the top 15-20% of that class. Beyond her gpa, however, I have had many conversations with Sydney in the past year and a half. I find her to be smart, mature, and extremely serious about law study and the legal profession. She is highly articulate and reflective. She also has a wonderful sense of humor and is a pleasure to be around.

I don't often go out on a limb to try to obtain judicial clerkships for students who are not in the top 5-10% of the class. Having sent many hundreds of students on to judicial clerkships over the decades, however, I am confident that Sydney Jackson would serve you admirably. I recommend her to you with great enthusiasm.

Thank you very much for your attention and consideration. Please let me know if you think I can provide additional information.

Sincerely yours,

Ira P. Robbins
Barnard T. Welsh Scholar and
Professor of Law and Justice

Ira Robbins - robbins@wcl.american.edu - (202) 274-4235

August 29, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige, Jr.
U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

I write this recommendation on behalf of Ms. Sydney Jackson. Ms. Jackson is intelligent, independent, organized, and committed to task completion and academic success. Her drive for perfection, her personality, and her legal writing and research skills would make her an exceptional asset to your staff.

Ms. Jackson was a student of mine in Legal Rhetoric at American University, Washington College of Law the spring of her 1L year. Legal Rhetoric is a writing, research, and citation class in which students are taught to write various types of interoffice documents, as well as motion memos and briefs. This is the only class in the 1L curriculum that meets for an entire year. As you are aware, legal writing differs dramatically from undergraduate writing. Most students have a moderately difficult time making the transition to a more analytical and structured style. Ms. Jackson had a different professor her fall 1L year, but I was lucky enough to take over the class in the spring and get to know Ms. Jackson. A different professor mid-year is quite a disruption. There are different teaching styles, different focuses, and different backgrounds to draw on. Additionally, the focus of the fall curriculum is objective writing, and the focus of the spring curriculum is persuasive writing and oral advocacy. Ms. Jackson adapted quite well to the transition of persuasive and advocacy writing as well as to my teaching style and elevated expectations of my students. Ms. Jackson fully achieved the objectives of the course and is able to compose well-written, well-reasoned, incredibly effective legal documents.

Unlike the traditional doctrinal classes, Legal Rhetoric is a smaller class of 22-24 students. This smaller setting allows a professor to interact closely with her students. Not only did Ms. Jackson participate in large-group discussions, but she also participated consistently in small-group discussions and helped explain difficult material to others. Additionally, Ms. Jackson had the courage to ask questions and seek help on assignments after she has attempted to work through them on her own. Mr. Jackson was incredibly respectful of my time and others; she always came prepared to class and to office hours. This diligence earned her an A- in my class, which is not an easy task to do.

The spring semester of Rhetoric also focused heavily on oral advocacy. Ms. Jackson is a strong oral advocate. She is able to concisely and persuasively verbalize her message all while her demeanor demonstrates confidence and compassion. She received a score well above the class average on her Appellate Oral Argument.

American University Washington College of Law is proud of its student body and the impact that the students have in their respective legal communities. I believe that Ms. Jackson will make positive contributions to the academic, legal, and service communities during her career. In short, Ms. Jackson is a diligent, respectful, and hard-working student who would make an excellent addition to your chambers. Please let me know if I can be of further assistance.

Very truly yours,

Heather E. Ridenour
Professor of Legal Rhetoric

Heather Ridenour - hridenour@wcl.american.edu - 202-274-4301

SYDNEY JACKSON

4550 Connecticut Ave NW, Washington, DC 20008
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The attached writing sample is an excerpt from an appellate brief I wrote for my Legal Rhetoric: Research and Writing class last spring. Specifically, I was required to draft a brief on behalf of the appellants, Peggy Stephenson & Al Stephenson, when Peggy Stephenson was injured by an employee driving a company scooter. As the appellants, I argued that the District Court erred in granting the Appellee's Motion for Judgment as a Matter of Law when the employee was working within the scope of his employment and on a special mission. To reduce the length of the document, the Statement of Facts, Summary of the Argument, Argument II, and Conclusion have been omitted.

The following are facts relevant to Argument I: Seven-year-old Peggy Stephenson was selling lemonade in front of her house when she was hit by a scooter owned by Scooter-Eats and operated by employee Fred Derry. Scooter-Eats is a company that provides scooters to employees to deliver food to customers' homes. On that day, Scooter-Eats dispatched Derry to pick up and deliver an order. After Derry's delivery, he rode to his grandmother's house to drop off extra food and pick up cowboy boots for a Scooter-Eats' promotion. While returning to Scooter-Eats, he lost control of the scooter and hit Peggy Stephenson.

ARGUMENT

I. The District Court erred in granting the Motion for Judgment as a Matter of Law that Scooter-Eats is not vicariously liable because Derry's trip to his grandmother's house is within the scope of his employment or Derry had a special mission to return to the Dispatch Center at the time of the accident.

Vicarious liability is used to hold an employer liable for the damage that an employee causes within the scope of his employment or while on a special mission at the direction of the employer. *See Arbelaez v. Just Brakes Corp.*, 149 S.W.3d 717, 720 (Tex. App. 2004). This stipulation provides a heavy burden on the part of a powerful company that has authority and control over the actions of its less powerful employees. *See id.* at 721.

The District Court erred in granting the Motion for Judgment as a Matter of Law as to Derry's scope of employment and special mission. Derry's trip is within the scope of his employment for Scooter-Eats because he was riding to his grandmother's house to pick up cowboy boots for a Fourth of July promotion. Further, Derry was on a special mission because he was getting cowboy boots for the company promotion and because he was ordered by manager Butch Engle to return to the Dispatch Center. Thus, the Stephensons respectfully request that the District Court's decision be reversed and remanded for further proceedings.

A. Derry's trip was within the scope of his employment for Scooter-Eats, Inc. because he was riding to his grandmother's house to pick up cowboy boots for a Fourth of July promotion.

An employee is within the scope of his employment when he conducts himself under the general authority of his employer in furtherance of the business, and the activity is for the accomplishment for which he was hired. *See Painter v. Amerimex Drilling I, Ltd.*, 561 S.W.3d 125, 133 (Tex. 2018); *Goodyear Tire & Rubber Co. v. Mayes*, 236 S.W.3d 754, 757 (Tex. 2007); *Robertson Tank Lines, Inc. v. Van Cleave*, 468 S.W.2d 354, 361 (Tex. 1971); *Brown v. Am. Racing Equip., Inc.*, 933 S.W.2d 734, 736 (Tex. App. 1996); *Dictaphone Corp. v. Torrealba*, 520

S.W.2d 869, 873 (Tex. Civ. App. 1975); *Mitchell v. Ellis*, 374 S.W.2d 333, 336 (Tex. Civ. App. 1964); *Texas Power & Light Co. v. Evans*, 225 S.W.2d 879, 882 (Tex. Civ. App. 1949).

An employee conducts himself within the general authority of his employer when he abides by company rules and restrictions. If these rules are unspecified, then the employee has greater discretion in his conduct. In *Dictaphone Corp.*, an employee worked in several counties selling company machines and worked within his personal schedule. 520 S.W.2d at 870–71. While headed in the general direction of his next job, but running a personal errand, he caused an accident. *See id.* at 871. The court held that the employee was still under the general authority of his employer even though he did not take a direct route to his next job because the employee intended to continue work. *See id.* at 873. Therefore, the greater the discretion of the employer, the greater the likelihood the employee’s conduct falls within the scope of employment. *Cf. Painter v. Amerimex Drilling I, Ltd.*, 561 S.W.3d 125, 128 (Tex. 2018) (holding that the employee was within the scope of employment even though he deviated from the path because the employer gave full discretion on route choices and stops).

An employee conducts himself in a manner that is in furtherance of the business when his actions fall within the general nature of his employee duties. In *Brown*, an employee was asked by his manager to make a personal trip during a lunch break to bring a mechanic to the manager’s car, which broke down the night before. 933 S.W.2d at 734. While the employee was helping the mechanic assess the problem, the car rolled and killed the mechanic underneath. *Id.* The court found that the employee was not acting in a manner that was in furtherance of the business because the employee was simply helping a coworker with a personal favor during his break. *See id.* at 736. Although the manager was the superior, the employee’s actions did not further the business nor fall within the general nature of his duties. *Id.* Additionally, in

Goodyear, an employee was driving home in a company car with a tire delivery but did not make it to the store to drop off the tires before closing. 236 S.W.3d at 756. He kept the tires in the back of his truck as he went on a personal errand to buy cigarettes. *Id.* Though the employee was in a company car with a delivery in his trunk, the court found that his actions were not in furtherance of the business because his buying of cigarettes was purely personal. *See id.* at 757.

Actions accomplished in furtherance of the business can serve a dual purpose. In *Texas Power*, an employee was driving his employer's car from work to pick up his wife and bring her to the office when he got into a car accident. 225 S.W.2d at 880. Though the employee was picking up his wife, she also served as the cashier for the office, which furthers the employer's interest. *See id.* at 882. Therefore, even if an employee's actions may serve an incidental employee interest, so long as these actions benefit the employer to some capacity, the employee's actions are in furtherance of the business. *Id.* *See also Mitchell v. Ellis*, 374 S.W.2d 333, 336 (Tex. Civ. App. 1964) (holding that a purely personal trip to buy cigarettes is not in furtherance of business activities).

An activity is for the accomplishment for which the employee was hired when the employee engages in activities that fall within the general category of his employment. In *Painter*, an employee was paid a bonus to drive other employees to and from their bunkhouses and the worksite every day. 561 S.W.3d at 131. Occasionally, the employee would drive to other locations other than the bunkhouses after work and on one of these trips he got into a car accident. *Id.* The court found that even though the employee left the worksite, he had not stopped acting under his employee duties because was accomplishing a task for which he was hired. *See id.* at 133.

However, singular personal endeavors while using an employer's vehicle are not considered an activity that is for the accomplishment for which an employee was hired. In *Robertson*, an employee was dropping off a tank load in Odessa, but when he reached the extraction point there were no other loads, so the employer stated he should return to work in Corpus Christi. 468 S.W.2d at 357. The employee decided to stay in Odessa for the day where he later got into an accident. *See id.* at 358. The employee was hired to move tank loads to different locations, and he was not engaging in behavior that was related to this activity because he disregarded his employer's request to engage in purely personal activities. *See id.* at 361. Therefore, the court found that simply driving a company truck is not enough to show that the employee's conduct was accomplishing the object for which he was hired. *See id.* at 357.

Derry was within the scope of his employment because he conducted himself under the general authority of Scooter-Eats, even though he deviated from the path back to the Dispatch Center. *See* J.A. at 10. Derry was given wide discretion as to his pathway, so he could serve the entire area, like the employee in *Dictaphone Corp.* *See* 520 S.W.2d at 871; J.A. at 9. The holding in *Dictaphone* indicates that though Derry was not on the most efficient route back to the Dispatch Center, Derry's general direction was correct and falls within the scope of his employment. *See* 520 S.W.2d at 873; J.A. at 10.

Scooter-Eats' business was furthered due to Derry picking up the cowboy boots for a Fourth of July company promotion. *See* J.A. at 24. Unlike the employee in *Brown* who was doing a favor for a coworker during his lunch break, Derry was delivering food during his shift and picking up cowboy boots needed for a company promotion. Derry's actions only benefited Scooter-Eats' interests. *See* 933 S.W.2d at 736; J.A. at 24. Derry is unlike the employee in *Goodyear* who went on a purely personal errand to pick up cigarettes, Derry was picking up

cowboy boots for the purpose of furthering the business of Scooter-Eats during its promotion period. *See* 236 S.W.3d at 756; J.A. at 24.

Derry's trip to his grandmother's house served a dual purpose that benefitted both Scooter-Eats and himself, so his actions fall within the scope of employment. *See* J.A. at 24. Derry is like the employee in *Texas Power* who was driving his wife, who served as the cashier for the office, to work. *See* 225 S.W.2d at 880. The employee's actions were both a personal benefit and a business necessity. *Id.* Though the Scooter-Eats promotion was not an immediate event, Derry's trip served the dual purpose of delivering free food to his grandmother and picking up cowboy boots, so the actions were furtherance of the business. *See* J.A. at 24.

Derry was completing the accomplishment for which he was hired by picking up cowboy boots to promote Scooter-Eats. *See* J.A. at 24. Like *Painter*, where the employee was expected to drive employees to and from the worksite, Derry was anticipated to promote different events for Scooter-Eats as an employee. *See* 561 S.W.3d at 133; J.A. at 10, 24. Additionally, activities completed off the worksite can still accomplish the object for which an employee was hired, so Derry's actions outside of the Dispatch Center still serve this purpose. *See* 561 S.W.3d at 133.

Derry's activities to obtain cowboy boots do not serve a singular personal endeavor. *See* J.A. at 24. Unlike the employee in *Robertson* who used an employer's truck for personal errands, Derry's actions to pick up cowboy boots do not fall within the category of personal endeavors. *See* 468 S.W.2d at 361; J.A. at 24. Therefore, the Stephensons respectfully request that the District Court's decision be reversed and remanded for further proceedings.

B. Derry was on a special mission because he was getting cowboy boots for a company promotion and because he was ordered by manager Butch Engle to return to the Dispatch Center.

An employee is on a special mission when he is at the implied or expressed direction of his employer to engage in activities that are in furtherance of the employee's duties or is a special request by the employer. *See* 149 S.W.3d at 720; *Soto v. Seven Seventeen HBE Corp.*, 52 S.W.3d 201, 207 (Tex. App. 2000); *Chevron, U.S.A., Inc. v. Lee*, 847 S.W.2d 354, 356 (Tex. App. 1993). To qualify as a special mission the employer must give a means of travel or specific pathway. *See* 52 S.W.3d at 205; *Wilson v. H.E. Butt Grocery Co.*, 758 S.W.2d 904, 907 (Tex. App. 1988). A special mission is an exception to the coming and going rule, so an employer can be held vicariously liable even if their employee is travelling to or from his home so long as he was on a special mission. *Upton v. Gensco, Inc.*, 962 S.W.2d 620, 622 (Tex. App. 1997).

A special mission occurs when an employee is at the implied or expressed direction of his employer. In *Chevron, U.S.A., Inc.*, an employee was requested to attend a seminar on his day off that was sixty miles away. 847 S.W.2d at 355. The employee would not have engaged in this activity if his employer did not expressly request his attendance, so the court held that the employee was on a special mission. *See id.* at 356. Conversely, in *Soto* an employee was instructed to return hotel keys at the end of his shift. 52 S.W.3d at 203. On one occasion, the employee realized he accidentally kept the keys, so he raced back to work and hit a pedestrian. However, it was customary for employees who forget to return the keys at the end of day to simply return them during the next shift. *See id.* at 203, 207. Therefore, the employee was not at the implied nor expressed direction of his employer. *Id.*

The requested special mission is an activity that is in furtherance of the business. In *Arbelaez*, a manager requested that an employee pick up breakfast for the office as his first

assignment of the day. 149 S.W.3d at 720. The court found that this expressed request was for the benefit of the office because only one employee was occupied with obtaining food instead of the whole office, so the employee's activity was in furtherance of the business. *See id.* at 721.

When an employer provides a means of transportation or a specific path, then the employee is on a special mission. In *Wilson*, a manager was returning home from a work emergency where she was called in to fix a computer malfunction when she got into a car accident. 758 S.W.2d at 906. The court held that because the company had no control over her means of transportation or route, this request was not a special mission. *See id.* at 908. *See also* 52 S.W.3d at 205 (holding that because the employer did not regulate the employee's means of transportation nor his route that the employee was not on a special mission when he decided to drive back to work).

A special mission occurs even when an employee is going to or from his home, which would ordinarily inhibit vicarious liability. In *Upton*, a travelling salesman was returning home from work when he got into an accident. 962 S.W.2d at 620. The court found that because the salesman was simply driving home from work, his actions did not fall within a special mission exception of the coming and going rule, so his employer was not held liable. *See id.* at 622.

Derry was on a special mission because the trip to his grandmother's house was at the implied direction of Scooter-Eats to obtain cowboy boots for a promotion. *See* J.A. at 24. After he picked up the boots, his manager expressly ordered him to return to the Dispatch Center. *Id.* Like the employee in *Chevron* who was requested to attend a seminar, Derry was requested to participate in the company promotion and return to Dispatch Center. *See* 847 S.W.2d at 356; J.A. at 10. Derry was at the implied and expressed direction of his employer, unlike the employee in

Soto whose employer never implied or expressed direction that an employee return to work to return the keys. *See* 52 S.W.3d at 207; J.A. at 30.

Derry's conduct to pick up cowboy boots and return to the Dispatch Center was in furtherance of the business. *See* J.A. at 24. Like the employee in *Arbelaez* who was instructed to pick up breakfast for the office, Derry's actions were for the benefit of Scooter-Eats. *See* 149 S.W.3d at 721; J.A. at 24.

Scooter-Eats did not supply directions for its employees' deliveries, but it required its employees to use company scooters, so Derry's circumstances fall within the special mission category. *See* J.A. at 9. Derry is unlike the employees in *Wilson* and *Soto* who were not given either a route or a method of transportation, so their actions did not fall within the special mission category. Derry's required use of the company scooter, a specific method of transportation, designates his special mission status. *See* 758 S.W.2d at 906; 52 S.W.3d at 205; J.A. at 9.

Derry falls into the exception of the coming and going rule because Derry did not live with his grandmother, and thus was not coming to or from his house while on a special mission. *See* J.A. at 24. Unlike the salesman in *Upton*, where a salesman was returning home, Derry was visiting his grandmother, who he visits a couple times a month, to pick up cowboy boots. *See* 962 S.W.2d at 620; J.A. at 24.

The courts reasonably give victims the opportunity to show that powerful companies are vicariously liable for the actions of their many employee's while on special missions at the request of their superiors. *See* 149 S.W.3d at 721. Thus, Peggy and Al Stephenson respectfully request this Court reverse the District Court's decision and remand for further proceedings.

Applicant Details

First Name	Amber
Last Name	Jannusch
Citizenship Status	U. S. Citizen
Email Address	amber.jannusch@gmail.com
Address	<div> <div>Address</div> <div> <div>Street</div> <div>1561 Wheelock Ln. Apt. 202</div> <div>City</div> <div>St. Paul</div> <div>State/Territory</div> <div>Minnesota</div> <div>Zip</div> <div>55117</div> <div>Country</div> <div>United States</div> </div> </div>
Contact Phone Number	3196218358

Applicant Education

BA/BS From	Gustavus Adolphus College
Date of BA/BS	June 2000
JD/LLB From	William & Mary Law School
	http://law.wm.edu
Date of JD/LLB	May 15, 2005
Class Rank	15%
Law Review/Journal	Yes
Journal(s)	Journal of Women and the Law
Moot Court Experience	No

Bar Admission

Admission(s)	Iowa, Minnesota
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Prior Judicial Experience

Judicial Internships/Externships	No
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Specialized Work Experience **Pro Se**

Recommenders

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References

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

September 14, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige,
Jr., U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

I write in application for a clerkship in your chambers for the next available term. In addition to a J.D. from the College of William and Mary, I also have significant research experience from a Ph.D. and work in the legal field and am a member of the bar in Minnesota and Iowa. I graduated in the top 15% of my class at William and Mary, received high honors in Legal Skills class, served on the Board of the Journal of Women and the Law, and received several prestigious fellowships in law school and graduate school, including a Graduate Research Fellowship that included assisting in research for Professors Davison Douglas and William Van Alstyne.

As a Reference Attorney at Westlaw, I am an expert on legal research, helping attorneys across the country with research issues. The job entailed a five-week intensive training program and continuous updates and education each week. I was selected to be on a Premier team, assigned to large law firms and federal government accounts, chosen as a mentor to incoming Reference Attorneys, and asked to assist in developing training and educational materials.

I am submitting here my resume, transcript, list of references, and a writing sample, the full manuscript of which is currently accepted for publication at Communication Law Review.

Please let me know if I can provide any additional information. I can be reached by phone at 319-621-8358 or by email at amber.jannusch@gmail.com. Thank you for considering my application.

Respectfully,

Amber Jannusch, J.D. Ph.D.

Amber Jannusch

1561 Wheelock Lane Apt. 202, St. Paul, MN 55117

319-621-8358

amber.jannusch@gmail.com

Highlights

- Significant experience researching, writing, and editing in social sciences and law.
- Skilled multi-tasker, leader, and team player with strong interpersonal, speaking, teaching, and problem solving skills.
- Licensed to practice law in Iowa and Minnesota.

Accomplishments

- Selected for prestigious Presidential Fellowship, awarded to only 30 incoming students in the Graduate College at University of Iowa.
- Selected for Graduate Research Fellowship at The College of William & Mary Law School, and recognized for high achievement in Legal Skills.
- Taught numerous communication studies classes at several diverse schools, and facilitated implementation of computer system to organize research projects and eligible participants.

Experience

Reference Attorney

2018-2020

Thomson Reuters, Eagan, MN

- Researched myriad complicated legal issues across practice areas for attorneys nationwide.
- Selected for Premier team, responsible for research for Top 100 firms and specialty products.
- Produced content for internal and external research-focused articles and newsletters
- Participated in projects designed to test and improve user experience for legal researchers

Legal Researcher and Outreach Coordinator

2015- 2016

Iowa Legal Aid, Iowa City, IA

- Researched, drafted, edited, and revised memorandum of law and legal opinion publications.
- Analyzed statutes, recorded judicial opinions, legal articles, statutes, and codes.
- Conducted client interviews and data gathering.

College Professor

Adjunct Professor, Hamline University, St. Paul, MN

Spring 2020

Visiting Assistant Professor, University of Wisconsin-La Crosse, La Crosse, WI

2016-2018

Visiting Assistant Professor, University of Iowa, Iowa City, IA

2014-2015

Adjunct Professor, Cornell College, Mount Vernon, IA

2014

Adjunct Professor, Scott Community College, Davenport, IA

2011-2012

Teaching Assistant, University of Iowa, Iowa City, IA

2007-2014

- Designed and created syllabi, assignments, lesson plans, and assessment materials including papers, presentations, and exams.
- Developed interesting course plans to meet academic, intellectual, and social needs.
- Inspired students to translate academic interests into the real world through service learning activities and community service.

- Used variety of teaching techniques to encourage student critical thinking and discussion.
- Evaluated highly for accessibility, enthusiasm, clarity, and involvement.

Legal Researcher

Outagamie County Corporation Counsel

Periodic, 2003-2008

- Researched and wrote memorandums of statutory and constitutional law.
- Drafted wide-ranging analysis of confidentially laws for human resources departments.
- Wrote appellate brief submitted to Wisconsin Court of Appeals.
- Participated in county administrative meetings and policy discussions.

Education

University of Iowa, Iowa City, IA

M.A., Communication Studies

2008

Ph.D., Communication Studies

2014

- Dissertation title: Politics Among Friends: Political Persuasion Through the Lens of Sequential Inferential Paradigm
- Completed coursework in interpersonal communication, persuasion and argumentation, qualitative and quantitative methods, and political science.
- Served as reviewer for multiple journals and conferences.
- Presented at national and regional conferences and published research articles

College of William & Mary, Williamsburg, VA

2005

J.D.

- Selected as Graduate Research Fellow, assisting Professors Davison Douglas and William Van Alstyne in legal research and publication.
- Served as assistant to Editor for Journal of Women and the Law.
- Attended program in international law at Irish Center for Human Rights.
- Organized symposium and moot court competition for Institute of Bill of Rights Law.
- Recognized for excellence in research, writing, analysis, negotiation, and interviewing.

Community Service and Involvement

Volunteer Lawyer

2019-2020

Minnesota Legal Advice Online, Minneapolis, MN

Volunteer Lawyer, Pro-Se Asylum Project

2019-2020

Volunteer Lawyers Network, Minneapolis, MN

Legal Researcher

2019-2020

Advocates for Human Rights, Minneapolis, MN

- Interviewed undocumented immigrants and researched labor and immigration law.
- Contributed to memo for UN consideration in review of US labor policy and enforcement.

Volunteer Lawyer

2016-2018

Iowa Legal Aid

Amber Jannusch
William & Mary Law School
Cumulative GPA: 3.54

Fall 2002

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Civil Procedure		A	4	
Contracts I		B+	2	
Legal Skills I		P	2	
Property I		A-	3	
Torts		B+	4	

Spring 2003

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Constitutional Law		B+	5	
Contracts II		B+	3	
Criminal Law		A-	3	
Legal Skills II		HP	2	
Property II		A-	2	

HP = High Pass

Fall 2003

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Administrative Law		B+	3	
Advanced Research I		A-	1	
Criminal Procedure I		C+	3	
Critical Race Theory		B	1	
Evidence		B+	3	
Legal Skills III		P	2	
Women & Law Journal		P	1	

Spring 2004

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Criminal Procedure II		B+	2	
Law of Compassion		A	3	
Legal Skills IV		HP	2	
Non-Profit Law Practice		A	3	
Select Probs in Criminal Justice		A	3	
Women & Law Journal		P	1	

HP = high pass

Fall 2004

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COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Constitutional Tort Litigation		P	3	
Federal Courts		A	3	
Federal Criminal Law		A-	3	
First Amendment		A-	4	
Supreme Court Seminar		A-	2	

Spring 2005

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Campaign Finance in American Elections		B	2	
Law & Literature		P	1	
Lawyers and Practice Settings		B+	2	
Therapeutic Jurisprudence		A-	3	
Women & the Law		A-	3	

Grading System Description

Letter grades

Amber Jannusch
Gustavus Adolphus College
Cumulative GPA: 3.55

Fall 1996

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Chapel Choir		A	.250	
First Term Seminar		A	1	
Forensics		P	.125	Pass
Interpersonal Communication		A-	1	
Public Speaking		B+	1	
Spanish Composition		C	1	

January 1997

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Jesus in the Movies		B	1	

Spring 1997

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
British Literature II		A-	1	
Chapel Choir		A	.250	
Christ Singers		P	.125	pass
General Psychology		B	1	
Intro to Spanish Literature		B+	1	
Voice class		A-	.250	
World Regional Geography		B-	1	

Fall 1997

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
American Public Address		A	1	
Dance		P	.5	
Elementary Philosophical Logic		A	1	
Sexuality		P	.250	pass
Spanish American Literature		B	1	
Studies in religion		B-	1	

Spring 1998

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Adv. Spanish Composition		T	.750	Transfer credit
Contemporary Spanish Literature		T	.750	Transfer credit

History of Spain	T	.750	Transfer credit
Spanish Grammer/Phonetics	T	.750	Transfer credit
Women in Spain	T	.750	Transfer credit

Credits from study abroad at University of Alicante, Spain.

Fall 1998

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Applied Spanish Linguistic		W	0	Withdrew
Campaign Communication		A	1	
Critical Thinking and Argumentation		A	1	
Relaxation		P	.250	Pass
U.S. Government and Politics		A	1	

January 1999

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Gustavus Choir		P	1	Pass

Choir tour in South Africa

Spring 1999

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Constitutional Law		A-	1	
Gustavus Choir		A	.250	
Media & Society		A-	1	
Political Thought		B+	1	
Resistance and Liberation		A-	1	
Tai Chi		P	.250	Pass

Fall 1999

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Appreciation of Fiction		A-	1	
Campaigns and Social Movements		B+	1	
Gustavus Choir		A	.250	
Jurisprudence		A	1	
Small Group Communication		A-	1	

January 2000

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Chemistry of Nutrition		B+	1	

Spring 2000

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
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Honors Thesis	A	1
International Relations	A	1
Legal Argumentation	A-	1
Parties & Elections	A	1

Dean's List

Grading System Description

Letter Grades

1 course = 1 credit

Amber Jannusch
University of Iowa
Cumulative GPA: 3.61

Fall 2006

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Classical Rhetoric		A	3	
Intro to Rhetorical Inquiry		A	2	
Intro to research		S	2	Satisfactory
Issues in Teaching		S	1	Satisfactory
Rhetorical Theory		A-	3	

Spring 2007

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Education and Social Change		A	3	
Public Address		B	3	
Rhetorical Criticism		A	3	
Theories of Persuasion		B+	3	

Summer 2007

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Health Communication		B-	3	

Fall 2007

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Communication Theory		B+	3	
Critical TV Studies		A-	3	
Problem in American Politics		A-	4	

Spring 2008

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Public Opinion and Electoral Behavior		A-	4	
Quantitative Research Methods		A-	3	
Relational Comm Theory and Research		A-	3	

Passed qualifying examination to earn Master's Degree.

Leave of absence Fall 2008

Spring 2009

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
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Family Gender and Constitutional History	B+	3
Persuasion in Health Campaigns	A-	3
Social Cognition	A	3

Summer 2009

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Independent Study		S	3	

Fall 2009

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Family Communication		A	3	
Intro to Statistical Methods		B+	3	
Qualitative research		A	3	

Spring 2010

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Cognition, Communication and Identity		A-	3	
Dialogic Communication		A-	3	
Qualitative Analysis		A-	3	

Summer 2010

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Applied statistics		B+	3	

Fall 2010

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Design of Experiments		B	4	
Persuasion theory and research		A	3	
Ph.D. Dissertation		S	1	Satisfactory
Reading Group		A	1	
Passed Comprehensive Exam				

Spring 2011

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Correlation and Regression		B	4	
Ph.D. Dissertation		S	4	Satisfactory
Reading Group		A	1	

Summer 2011

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		S	2	Satisfactory

Fall 2011

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		2	S	Satisfactory

Spring 2012

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		2	S	Satisfactory

Fall 2012

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		U	2	

Spring 2013

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		2	S	Satisfactory

Fall 2013

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		S	2	Satisfactory

Spring 2014

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		A	2	

Summer 2014

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Ph.D. Dissertation		A		

Grading System Description

Letter Grades

September 16, 2020

The Honorable Elizabeth Hanes
Spottswood W. Robinson III & Robert R. Merhige,
Jr., U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Dear Judge Hanes:

I am writing on behalf of an applicant for a clerkship with you. I have known Amber Jannusch since 2006, first as a colleague in graduate school and more recently as a colleague at the university where I work (University of Wisconsin–La Crosse).

In graduate school, Amber was an excellent student with whom I regularly studied and discussed our common fields of interest in interpersonal communication. I graduated before she did, and during her dissertation writing period, she would frequently come to my house to work and discuss her research. We would spend entire weekends talking about her analysis, related research questions, and how we could use our research to improve the world.

Upon her graduation with her PhD, my university was able to hire her to teach our general education communication class called "Communicating Effectively." In this course, Amber was an integral innovator to improve course content and build rigor into the assignments. As a result, several of her students participated in our annual Public Speaking Competition, which featured the top five of nearly 2000 students enrolled in the class.

Because of her record of good teaching in the department, we were also able to use her expertise a second year as a visiting professor of interpersonal communication. During this time, she taught both the general education class and electives in our area. In both, she was a popular and rigorous instructor. The only reason we lost her was because of funding shortages.

In the time since, I have watched Amber grow her experience and leadership in legal areas. I believe her to be a competent, ethical, and energetic person capable of making a difference in your courtroom.

Sincerely,
Dena M Huisman

Dena Huisman - dhuisman@uwlax.edu - 608-792-3485

Jannusch Research Writing Sample

This is an excerpt from a manuscript entitled “Policy Fosters Family: Examining Discourses of Biology and Care in Foster Care-Related Government Texts,” accepted for publication at Communication Law Review.

Children are born to individuals to whom they are biologically related and legally bound; they are literally the embodiment of their parents. Though in some cases the legal status may change because of adoption, there are also cases where children are placed and raised outside of this home of the family of origin. Since colonial time, children have been placed with other adult guardians and/or in institutions/residential group-home facilities for a variety of reasons (Hacsi, 1995). Government officials have long been charged with monitoring poverty and granted the power to remove children from impoverished homes and place them elsewhere (Hacsi, 1995). Today, departments of Child Welfare Services (CWS) in each state is charged foremost with the protection of children (United States Department of Health and Human Services, henceforth DHHS, 2005), which includes monitoring the wellbeing of children and, if needed, placing them outside of the family of origin (DHHS, 2005).

The underpinnings of foster care are generally the same across the nation: In each case, children become legal wards of the state of residence while residing in the foster care system. Foster children are cared for by individuals who are not immediate members of the family of origin, either in residential, group-home facilities or, more often, in a residential home with at least one adult guardian figure. At the same time, these children are, at least upon entry, still legally and, usually biologically, bound to their family of origin (see DHHS, 2005). Currently in

the US, there are an estimated more than 420,000 children residing in foster care at any given moment (DHHS, 2011).

Foster care offers a site that complicates understandings of family and kinship, of biological ties as naturally and permanently binding (i.e., the discourse of the biological family), and of care as a foundation of familial interactions (discourse of family as constitutive care). Relationships of biology and those of care to either work together in complex ways (e.g., when foster parents care for, then adopt, a child while maintaining a relationship with the child's biological parent) or can be pitted against one another (e.g., when biological relatives and foster parents fight over custody of children).

This paper first explains the goals and policies that underlie the foster care system. We then demonstrate how the federal policies and guidelines privilege biological families and neglecting constitutive families in potentially damaging ways. Finally, we look to how state courts can interpret guidelines and laws in a way that eases the tension between promoting the best interest of the child and privileging biological ties as family.

Foster Care Development and Guidelines

It is well established in Constitutional law that parents have a liberty interest in the care and raising of their children without state intrusion. In Wisconsin v. Yoder, for example, the Court found that the state's interest in a child's education was outweighed by the parents' right to choose a method of education that comports with their religious beliefs, even if that means removal from school at age 16. This interest is not absolute, however; the government has a duty to safeguard and protect citizens, including children. Specifically, they can use their parens patriae power to remove vulnerable children, and take legal responsibility of them, finding them an alternative place to live (Prince v. Massachusetts).

The federal government's ability to do this directly is limited; the constitution does not grant power in this area, and thus the primary role in protection of vulnerable children falls to the states (Murray & Gesirich, 1996). The federal government can impose standards for foster care programs through funding power, creating guidelines that states are obligated to follow; it began this in the Social Security Act of 1967, which required all states to institute foster care programs.

Essentially, if states wanted federal money to help with Foster Care programs, they would have to work with the federal government and follow Congressional provisions related to child welfare and safety. Congressional policy has varied over time, demonstrating varying underlying values of the system. For example, the Adoption Assistance and Child Welfare Act (AACWA) of 1980 focused on the importance of the biological family (particularly birth parents), and established a policy of reuniting families regardless of prior abuse whenever possible. This value was reaffirmed, albeit implicitly, in the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, which included a focus on family care, requiring that states must include in their consideration giving preference to relatives over non-relative caregivers. However, PRWORA modifies that with "providing that the relative caregiver meets all relevant state child protection standards."

The bipartisan Adoption and Safe Families Act (ASFA) of 1997 began to change this mentality. It held that, while keeping families intact was a value, the primary goals of the foster care system should be to (1) protect children from harm, (2) support families, and (3) promote permanency for children. The Act also regulated the amount of time a state can have the child in the program; for children who have been in foster care for 15 of the last 22 months, the State must begin proceedings to terminate parental rights, unless there is a compelling reason or if the child is in a Foster Home with a biological relative.

Although the particulars of Child Welfare Services are instituted and performed on a state-by-state rather than federal basis, the federal DHHS and CWS provide a multitude of resources for state-run departments and services including national studies, planning guidelines, tips for caseworkers, and promotion of foster care and adoption, many of which are readily accessible on a variety of public, government domain (e.g., .gov) websites. CWS offers standards of practice guidelines and information for all organizations and individuals involved with foster care systems throughout the United States through the Child Welfare Information Gateway (CWIG).

The CWIG suggests that “Child welfare professionals first focus on preserving families and preventing the need to place children outside of their homes” (CWIG, NDa). Of course, this is not always possible; children cannot always live safely with their families of origin. According to DHHS, in those cases children are placed in out-of-home (foster) care (2005). The majority of foster children are removed from the care of at least one biological parent; however, children who were legally adopted by, rather than born to, their parents are not immune to abuse/neglect and are also sometimes placed in the foster care system.

The policies from CWS through the CWIG do first and foremost focus on permanency for a child. Permanency is stressed because “youth who are emancipated from foster care without permanent family are at a high risk for many poor outcomes” (DHHS, 2005, p. 2). For example, one study found that former foster children who were emancipated early or who “aged out of the system” encountered a variety of negative outcomes: More than one in three were homeless, incarcerated, seriously physically victimized, and/or sexually assaulted, including raped, at least once within 18 months after they exited foster care (Courtney, Piliavin, Grogan-Kaylor, and Nesmith, 2001). It is clear that permanent family placements are integral to

achieving the overarching goal of foster care: Protecting children and, therefore, providing children with ongoing care.

However, the guidelines in CWIG clearly demonstrate the assumption that the best way to accomplish the goals of protection, support, and permanency is through biological or legal ties to the child's original family. In so doing it relegates other understandings of family as lesser, possibly at the cost of the best interest of the child.

Privileging the biological discourses of family

There are two discourses of what it means to be family, and in privileging a discourse of the family as one this is biological or legal over a discourse of the family as constitutive, the Foster Care system may be working at odds within itself. The ASFA clearly identifies the goals of the foster care system to be to create permanent families that care for children. However, while emphasizing the importance of permanency, foster care itself is simultaneously meant to be temporary, and the permanency goal at the outset of most cases is reunification with the family of origin (DHHS, 2005). The language used in the federal guidelines as well as the policies it promotes clearly demonstrates the use of biology in defining families, neglecting other types of families that can be constructed in multiple ways and which may provide better care for a foster child.

A constitutive discourse of family includes "ties of affection" (Baxter & Braithwaite, 2006), widening the understanding of family to be one that is based on *care*, not necessarily biology or legal documentation. Butler (2004), for example, sets kinship apart as relationships that are "more than," and thus lie beyond, traditional understandings of family as sexual (e.g., a partnered, heterosexual couple) and biological (e.g., the heterosexual couple's biological, nuclear

family). Although the overarching goal of foster care and CWIG is child protection and care, CWIG clearly advocates for achieving these goals through maintaining ties of biological relatedness, initially closing down other non-biologically related permanency options. Only as a secondary option are familial ties that are constituted primarily through care considered.

In deciding on placement for children, courts consider how to achieve the government's goals of keeping children safe and stable and protecting families. The problem, though, is that in doing so the Foster Care system (through its guidelines) and the court system may be neglecting the best interests of the child because of their limited definition of family.

While the overarching goal of foster care is *care*, the undercurrent of the system pulls toward maintaining biological ties; the discourse of biological family seems to be the guide for much foster-centered policy. This can be seen in the language used in the guidelines and in the general policies underlying the system.

Guideline language that ties family to biology

The clearest example of the privilege of biology is in considering placed children to be in “foster families” (rather than just ‘families’). Others in the “foster family”, such as biological or legal children of the “foster parents” are not considered related (i.e. not given legal familial distinction or relation, the way the “foster parent” would). Only if and when a child is legally, permanently adopted by their foster family are the members identified as the child's relatives. As such, the temporary implications of the term “foster” outweigh permanent inferences that are often made from use of the term “family.” Relatives are only those individuals who are biologically/legally related to the child; thus, the discourse of biological family is privileged over the constitutive, care-based foster family.

The federal Department of Child Welfare Services (CWS) web pages frequently conflate “original family” with “biological family” or “their [implied *only*] families” and use the terms “biological family/parents,” or “their families/parent(s),” interchangeably. In this language it quickly becomes apparent that, although a child can live with other individuals or even a “foster family,” one’s “real” family is the biological family of origin. Furthermore, even “out-of-home care” implies that one’s home is with one’s biological family; regardless of where a foster child resides, it is not their “home” because they are not residing with their (biological) family of origin.

The language in the guidelines also reinforce the biological understanding in how it conflates “kin” with biology in the legal definition of family. The Child Welfare Information Gateway (NDb) demonstrates that: “When children in out-of-home care cannot be safely returned home to their parents, child welfare professionals first look to relatives (also known as kin) to provide temporary care and, if needed, a permanent family for them.” The parenthetical addition of “also known as kin” demonstrates the limitation of kin from the possibility of a constituted family to care provided to foster children by biological, and to a lesser extent legal, relatives to the family of origin.

Policies that privilege biological ties

In addition to language that conflates kin or family with a biological or legal tie rather than a more expansive definition that may provide better outcomes for children, the policies laid out in the guidelines puts those definitional understandings into practice, particularly in the promotion of reunification, visitation, and adoption.

With few exceptions, case planning for children placed in foster care starts with steps that are meant to continue (biological) familial ties and facilitate reunification with the family of

origin. For example, biological/legal relatives to the family of origin are often encouraged to become licensed as foster care providers in order to care for a “member of their family” (CWIG, ND). This is formal kinship care, in which children are fostered by relatives to their family of origin while still legally wards of the state.

The policies also emphasize the importance of reunification with the family of origin (DHHS, 2005). *Reunification* itself holds implications for expectations of biological ties: It is assumed, at least initially, that the best outcome is for children to return to the individual(s) from which they came, thus making the biological family whole, or unified, once again. “Child welfare professionals first focus on preserving families and preventing the need to place children outside of their homes. When children must be removed from their homes to ensure their safety, permanency planning efforts focus on returning them home as soon as is safely possible” (CWIG, NDa). In an effort to work toward reunification, the Foster Care system facilitates visitations to maintain that biological connection. Visitations are often arranged by CWS case workers and are frequently between a foster child and her/his parents, especially her/his mother, again demonstrating the values enshrined in the foster care policies.

When reunification with the (biological) family of origin cannot be achieved, regardless of whether the child has resided in kinship care, relatives to the child/family of origin are often first sought out as potential permanent, primary caregivers (CWIG, ND). Adoption by a non-relative is a viable permanency option only once adoption by relatives has been ruled out (CWIG, 2006). Even when it has been determined that it is in a child’s best interests to find them a permanent caretaker other than their original, biological/legal parent(s), foster policies promote the maintenance of contact with the family of origin.

References

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- Hacsi, T. (1995). From indenture to family foster care: A brief history of child placing. *Child Welfare*, 74(1), 162-180.
- Murray, K. O., & Gesiriech, S. (1996). A Brief legislative history of the child welfare system, available at pewfostercare.org/research/docs/legislative.pdf
- The Personal Responsibility and Work Opportunity Reconciliation Act (1996). Public Law 104-193.

Prince v. Massachusetts, 321 US 158, 64 S. Ct. 438 (1944).

Wisconsin v. Yoder, 406 US 205, 92 S. Ct. 1526 (1972)

Applicant Details

First Name **Sreedhar**
 Last Name **Jayaraman**
 Citizenship Status **U. S. Citizen**
 Email Address sreejaylaw@gmail.com

Address

Address
Street 3483 Highland Park Place City Memphis State/Territory Tennessee Zip 38111 Country United States

Contact Phone Number **9019229218**

Applicant Education

BA/BS From **University of Memphis**
 Date of BA/BS **May 2015**
 JD/LLB From **The University of Mississippi School of Law**
http://www.nalplawsonline.org/ndlsdir_search_results.asp?lscd=62501&yr=2011
 Date of JD/LLB **May 12, 2018**
 Class Rank **Below 50%**
 Does the law school have a Law Review/Journal? **Yes**
 Law Review/Journal **No**
 Moot Court Experience **No**

Bar Admission

Admission(s) **District of Columbia**

Prior Judicial Experience

Judicial Internships/Externships	No
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Recommenders

RANDLE-HOLT, DORIS
doris_holt@fd.org
9015443895

Hughes, Jordan
jbh@olemiss.edu

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Sreedhar “Sree” Jayaraman, Esq.
3483 Highland Park Place
Memphis, TN 38111
Phone: (901) 922-9218
Email: sreejaylaw@gmail.com

09/15/2020

The Honorable Judge Elizabeth W. Hanes,
United States District Court for the Eastern District of Virginia [Richmond Division]
Spottswood W. Robinson III & Robert R. Merhige, Jr., U.S. Courthouse
701 East Broad Street, 5th Floor
Richmond, VA 23219

Honorable Judge Hanes,

I write this to submit my application for the position of Term Law Clerk with the United States District Court for the Eastern District of Virginia and in support of my application would most respectfully submit as follows.

I am a 2018 University of Mississippi School of Law graduate admitted to practice in the District of Columbia as well as the U.S. District Court for the Western District of Tennessee in 2019. In addition to an undergraduate degree in Economics where technical writing and research was emphasized, I believe my clinic and internship experiences have given me the skills and knowledge necessary to faithfully execute the duties of a judicial clerkship.

During law school, I had the opportunity to intern with the Federal Public Defender’s Office for the Western District of Tennessee. In addition to cataloging discovery materials and transcribing client interviews, I regularly compiled legal research for public defenders on various matter of federal criminal law. In doing so, I was expected to review and critique my supervising attorney’s proposed arguments, providing citations for and against their stance. In my current clerkship for my father’s law firm, my duties are similar to those above but in addition to federal criminal law include immigration and family law practice.

In the latter half of law school, I worked as a student attorney for a Low Income Tax Clinic run by the North Mississippi Rural Legal Services. I represented debtors with IRS tax controversies in securing favorable repayment options as well as Offers in Compromise. As with my Federal Public Defender internship and current clerkship, the work was deadline-driven and I was tasked with reviewing client files and extensive volumes of code, with a discerning eye for sustainable legal arguments.

While I found these practical experiences profoundly constructive, I must confess that my academic performance does not evoke images of a top-tier law student. Quite the contrary; I struggled through law school trying to reconcile my fascination for legal theory with my anxiety in the face of comprehensive final examinations. However, where I did flourish was in the hands-on environment of various practical courses such as my aforementioned clinics, internships, and in certain subjects. While the prospect of a tightly timed bout of extemporaneous essay writing would leave me frustrated, engaging in problem solving with real world examples and models was a far more intellectually stimulating endeavor and my aptitude was often reflected in my grades and evaluations.

When tasked with drafting and negotiating a variety of mock contracts, I found my stride and earned my highest grade for my 1L year. I replicated that success in my 2L and 3L tax clinics, representing low

income Mississippians in filing taxes and negotiating IRS tax repayment, gaining an A- and B respectively and, far more rewarding, securing favorable outcomes for my clients. This in a subject, income taxation, where I only made a C+ on my traditional timed essay exam. Similarly, while I'm not proud of my performance in my Criminal Law course, I had a very rewarding experience interning for the Federal Public Defenders Office and was grateful to receive mentorship from the Chief Public Defender.

In seeking this clerkship, it is my ultimate goal to become a better advocate by assisting this Honorable Court and learning from this Court's wisdom. As I proceed in these early stages of my legal career, I view this clerkship as an invaluable opportunity to gain an intimate, working knowledge of the Federal Court system. If selected, I will approach my responsibilities with the utmost care and professionalism.

Attached please find my resume, transcripts, and writing sample in the form of a persuasive "Statement in Support" letter submitted to the IRS on my clients behalf during my 3L year Low Income Tax Clinic. This letter ultimately resulted in approval of my clients Offer in Compromise request.

With these considerations in mind, I respectfully submit this application for the current term clerkship before this Honorable Court. I thank you for your anticipated consideration.

Respectfully submitted,

Sreedhar "Sree" Jayaraman

SREEDHAR “SREE” JAYARAMAN

3483 Highland Park Place • Memphis, TN 38111

Em: sreejaylaw@gmail.com

Tel: 901-922-9218

SUMMARY

An attorney with academic and research experience in economic policy and transactional law with a professional interest in bankruptcy, taxation, and civil litigation.

BAR ADMISSION

DISTRICT OF COLUMBIA (07/2019)

WESTERN DISTRICT OF TENNESSEE [FEDERAL] (08/2019)

EDUCATION

UNIVERSITY OF MISSISSIPPI SCHOOL OF LAW

Juris Doctor | *Class of 2018*

Honors: *Business Law Concentration*

Description: Concentration covering transactional law, federal income taxation, corporate finance, and international trade.

Activities: *Business Law Network*

Member

Public Interest Law Foundation

Member

UNIVERSITY OF MEMPHIS

Bachelor of Arts | Economics (cum laude) | Class of 2015

Honors: *Provost Scholarship*

Dean's List

Helen Hardin Honors Program

Activities: *Students Learning Through Urban Gardening*

Vice President

LEGAL EXPERIENCE

LAW OFFICES OF K. JAYARAMAN

Law Clerk | *Jul 2018 - PRESENT* | *Memphis, TN*

Responsible for daily office management duties, researching criminal law, immigration, and divorce issues, and overseeing filing and submission of cases and visa applications.

LOW INCOME TAX CLINIC, NORTH MISSISSIPPI RURAL LEGAL SERVICES

Limited Practice Student Attorney | *Aug - Nov 2017* | *~90 Hours Total* | *Oxford, MS*

Drafted and filed Installment Agreement and Offer in Compromise requests, conducted client interviews, compiled client financial data, and contacted IRS on open case issues.

CHAPTER 13 BANKRUPTCY TRUSTEE'S OFFICE, WESTERN DIST. TENNESSEE

Shadowing Trustee | *Jul - Aug 2017* | *Memphis, TN*

Shadowed bankruptcy trustees during review of bankruptcy petitions, meeting of the creditors, and open court proceedings.

FEDERAL PUBLIC DEFENDERS OFFICE, WESTERN DIST. TENNESSEE

Legal Intern | *Jun - Jul 2017* | *Memphis, TN*

Researched and drafted memoranda on federal criminal law issues, cataloged discovery documents, transcribed client meetings, and attended federal court proceedings.

IRS VOLUNTEER INCOME TAX CLINIC, UNIV. OF MISSISSIPPI SCHOOL OF LAW

Tax Return Preparer | *Jan - Apr 2017* | *~50 Hours Total* | *Oxford, MS*

Filed 2016 individual tax returns at an IRS Volunteer Income Tax Assistance site.

TECHNICAL SKILLS

Conversant with ACT! CRM; WordPerfect Suite; MS Office Suite; LexisNexis; Westlaw; FastCase; Tax Slayer filing software; Windows and Linux operating systems

SREEDHAR “SREE” JAYARAMAN

Email: sreejaylaw@gmail.com
Tel: (901) 922-9218

REFERENCES

MS. JORDAN HUGHES

Research Counsel (Public Interest)

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MS. DORIS RANDLE-HOLT

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PROF. JOHN CZARNETZKY

Professor of Law

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Sreedhar Jayaraman
The University of Mississippi School of Law
Cumulative GPA: 2.64

FALL 2015

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
CONTRACTS	DAVIS	C+	4.00	
LEGAL RESEARCH AND WRITING 1	CAMPBELL	B-	3.00	
PROPERTY	HALL	C+	4.00	
TORTS	PERCY	B-	4.00	

WINTER INTERSESSION

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
CONTRACT NEGOTIATING AND DRAFTING		B	3.00	

SPRING 2016

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
CIVIL PROCEDURE I	CZARNETZKY	C	3.00	
CONSTITUTIONAL LAW I	ALEXANDRE	B-	3.00	
CORPORATIONS	BULLARD	B-	3.00	
CRIMINAL LAW	HOFFHEIMER	C-	3.00	
LEGAL RESEARCH AND WRITING II	CAMPBELL	B-	3.00	

SUMMER 2016

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Advanced Legal Research		Z	1.00	

FALL 2016

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Advanced Legal Topics I	ELIASON	Z	1.00	
CONSTITUTIONAL LAW II	ROY	B-	3.00	
CORPORATE FINANCE LAW	BULLARD	B	3.00	
IMMIGRATION LAW	HALL	B+	2.00	
INCOME TAXATION FOR INDIVIDUALS	DAVIS	C+	3.00	
WILLS AND ESTATES	GERSHON	A	3.00	

SPRING 2017

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
BANKRUPTCY	CZARNETZKY	C+	3.00	
CLINIC: TAX	DAVIS	A-	3.00	
CRIMINAL PROCEDURE I	NOWLIN	B	3.00	
EVIDENCE	PERCY	C+	3.00	
FAMILY LAW	GERSHON	B	3.00	

FALL 2017

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
CIVIL PROCEDURE II	PERCY	C	3.00	
CLINIC LOW INCOME TAX CLINIC	HUGHES	B	3.00	
CONFLICT OF LAWS	HOFFHEIMER	B	3.00	
INTELLECTUAL PROPERTY	LANTAGNE	C-	3.00	
INTERNATIONAL TRADE	ELIASON	B-	3.00	

SPRING 2018

COURSE	INSTRUCTOR	GRADE	CREDIT UNITS	COMMENTS
Advanced Legal Topics II	ELIASON	Z	1.00	
INCOME TAXATION FOR CORPORATIONS AND SHAREHOLDERS	DAVIS	C	3.00	
LEGAL PROFESSION	GERSHON	B	3.00	
Research Assistant I	ELIASON	Z	1.00	
SECURED TRANSACTIONS	CZARNETZKY	B-	3.00	

Grading System Description

GRADING SYSTEM: (Fall 1963 to present, 4.0 scale)

Grade

A – Excellent

B – Good

C – Satisfactory

D – Inferior

F - Failure

Z - Credit Granted

X – Audit

I –Incomplete

IP – In Progress

L* - denotes progress

W - Withdrawn

P - Passing

NC – No Credit

*Remedial non-degree only

GRADE POINT AVERAGE (GPA): The GPA is calculated by dividing the number of quality points earned by the graded hours attempted. Grades used in computing the GPA are: A, B, C, D, F. The CUMULATIVE GPA shown on the transcript reflects only UM work, and does not include transfer.

FEDERAL PUBLIC DEFENDER
Western District of Tennessee

Federal Defender
Doris Randle-Holt
First Assistant
Tyrone J. Paylor

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Fax (901) 544-4355

Jackson Office
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Jackson, TN 38301
Main (731) 427-2556
Fax (731) 427-3052

September 2, 2020

RE: Sreedhar Jayaraman

Dear Your Honor:

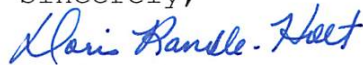
It is with honor and pleasure that I write this letter of recommendation on behalf of Sreedhar Jayaraman. He is a talented, competent and honorable young man.

I had the pleasure of having Sreedhar work as a legal extern last summer. His research skills and analytical ability matched that of a practicing attorney. Sreedhar is surely ready to engage in the thorough research and writing of legal issues. During his externship, he researched complex issues for suppression hearings, sentencing hearings and trials.

Having been a Federal Judicial Law clerk myself, I further find that it is important that I inform you that I have known Sreedhar Jayaraman since birth. He is a person of integrity and understands the importance of loyalty and confidential relationships. Therefore, I strongly recommend Sreedhar Jayaraman to serve as a judicial clerk.

It is my hope that he will engage in a life of public service.

Sincerely,



Doris Randle-Holt

Federal Defender



Clinical Programs

Learning Through Service

Criminal Appeals • Child Advocacy • Elder Law • Externships
Housing • MacArthur • Pro Bono Initiative • Street Law
Tax Law • Transactional • Mississippi Innocence Project

Low-Income Housing Clinic
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October 28, 2018

RE: Letter of Recommendation; Sreedhar Jayaraman

To Whom It May Concern:

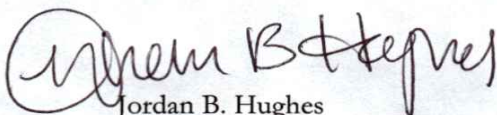
I first met Sreedhar in the Fall of 2017 while he was enrolled in the Tax Clinic with the University of Mississippi's School of Law. The Tax Clinic is part of the UM Law Schools Clinical studies program and aids low income clients in their controversies with the Internal Revenue Service.

As part of the Clinic, students learn how to navigate administrative appeals, U.S. Tax Court litigation, and negotiations with IRS appeals officers. They learn how to apply complicated areas of the U.S. Code to everyday situations, interpret IRS rules and regulations, and they learn how to apply this cumulative knowledge to actual clinical cases helping clients navigate IRS exams, appeals, tax court, and negotiate collection alternatives with the IRS.

Sreedhar was a valuable asset to the Tax Clinic. He exhibited a great work ethic, ability to comprehend difficult legal theories, efficiently managed his time and case load, and by the end of the semester was able to easily apply the applicable laws to the client's situation, analyze their options, and help them resolve their issues. Sreedhar's understanding of how to be a zealous advocate grew throughout the semester. He showed compassion for his clients, a willingness to ask hard questions, and growth in his legal career.

Sreedhar takes direction well and works well with other attorneys and students. He took initiative in several projects and self-managed his case load. Sreedhar has great potential and will succeed in the legal profession. I recommend him to your firm and know that he will be a valuable asset to the legal profession.

Respectfully,


Jordan B. Hughes
Attorney at Law

**SREEDHAR JAYARAMAN
WRITING SAMPLE**

**[DRAFTED FOR THE NMRLS LOW INCOME TAX CLINIC]
[CAPACITY: LIMITED PRACTICE STUDENT ATTORNEY]

STATEMENT IN SUPPORT OF OFFER IN COMPROMISE

JANE DOE

SREEDHAR JAYARAMAN
WRITING SAMPLE

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SREEDHAR JAYARAMAN
WRITING SAMPLE

EXHIBITS

Exhibit 1.....Form 433-A

Exhibit 2.....Form 656

Exhibit 3.....Renasant Bank Statements 2016

Exhibit 4.....Monthly Household Expenses

Exhibit 5.....Pay Stubs

Exhibit 6.....Power of Attorney Form 2848